Australian Energy Market Commission

AEMC
Australian Energy Market Commission

RULE

Consultation paper

Electricity network regulation review Package 1

National Electricity Amendment (Clarifying distribution ringfencing in emerging energy markets) Rule 2027

National Electricity Amendment (Enabling distribution network service provider led electric vehicle charging infrastructure) Rule 2027

Proponents
Nexa Advisory
Electricity Networks Australia

25 June 2026

Enquiries

Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

E aemc@aemc.gov.au
T (02) 8296 7800

Reference: EPR0106; ERC0435; ERC0437

About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

Acknowledgement of Country

The AEMC acknowledges and shows respect for the Traditional Custodians of the many different lands across Australia on which we live and work. The AEMC office is located on the land of the Gadigal people of the Eora nation. We pay respect to all Elders past and present, and to the enduring connection of Aboriginal and Torres Strait Islander peoples to Country.

Copyright

Citation

To cite this document, please use the following:
AEMC, Electricity network regulation review Package 1, Consultation paper, 25 June 2026

Summary

1 Electricity is fundamental to our way of life, and the design choices we make about the electricity system and the regulatory framework have a direct impact on people's quality of life. These choices determine the reliability of supply, the amount consumers pay, and have broader environmental and social considerations. The price of electricity also affects the broader economy and the international competitiveness of our industries.

2 The way we regulate electricity networks matters for these outcomes. Electricity networks are generally considered natural monopolies because a single service provider can provide core network services more efficiently and at a lower cost than multiple competitors.

3 While beneficial to consumers, being the only supplier of network services in a geographic area means that network service providers (NSPs) are not subject to the same discipline that they would face if they operated in a competitive market. They may not, therefore, have strong incentives to deliver the services customers want at prices that reflect the efficient cost of supply. As a result, monopoly electricity networks operate under a highly regulated framework. They are subject to obligations and controls that determine the services they can (or must) provide, as well as:

- how those services are classified, which then determines the form of economic regulation applied to those services
- the application of ring-fencing and other tools, such as cost allocation, connections and facility access arrangements, that are intended to ring-fence regulated network services from contestable services
- how network assets that are used to provide both regulated and unregulated services are treated.

4 For ease of reference, we refer to this part of the regulatory framework as the **service classification and ring-fencing framework**. We also use the term 'contestable markets' and other variants (e.g. contestable services or activities) to refer to markets where there is either competition to provide the services, or the potential for competition between third party providers.

5 The role electricity networks play is changing. The growth in renewable generation, consumer energy resources (CER), electrification and new service models is challenging the traditional boundaries between regulated network services and contestable services. These changes raise important questions about how network services should be classified, whether existing ring-fencing and other tools remain effective and appropriate and how the framework should treat increasingly dynamic multi-service assets, such as community batteries.

6 In this context, we have commenced a review of the regulatory framework for electricity networks to ensure it remains fit for purpose as the energy system changes. This consultation paper is the first step for Package 1 of the Electricity Network Regulation Review (ENRR or the Review). It focuses on the question of what services NSPs should provide in this changing environment, and whether the current service classification and ring-fencing framework in the National Electricity Rules (NER) continues to promote the long-term interests of consumers.

7 This consultation paper also initiates and seeks feedback on two related rule change requests because they too raise important questions about the role of networks and the boundaries of network regulation. Considering these rule change requests alongside the review will allow the Commission to assess them against a consistent set of policy principles and in the broader context of the evolving regulatory framework. The two rule change requests are:

- The *Clarifying distribution ringfencing in emerging energy markets* rule change request, submitted by Nexa Advisory (Nexa) on 3 March 2026, which seeks to strengthen the ring-fencing framework applying to distribution networks.
- The *Enabling DNSP led electric vehicle charging infrastructure* rule change request, submitted by Energy Networks Australia (ENA) on 2 April 2026, which seeks to enable distribution network service providers to roll out kerbside electric vehicle charging infrastructure (EVCI) as a regulated service.

8 We are seeking stakeholder views on the current service classification and ring-fencing framework and where change may be needed. This work forms part of Package 1 of the ENRR and will inform further consultation and recommendations on the future shape of the electricity network regulatory framework.

9 We are also seeking your feedback on how we propose to assess the Nexa and ENA rule change requests to determine if they will promote the long-term interests of consumers, the problems and materiality of the problems raised in the rule change requests, and the proposed solutions, including if there are alternative solutions that would better meet the National Electricity Objective (NEO).

We are structuring the review into two packages that aim to answer four fundamental policy questions

10 Our Review will focus on those aspects of the regulatory framework that determine what services networks provide that should be subject to economic regulation and how the revenue NSPs require for the provision of these services is determined. This includes the service classification and ring-fencing framework, the parts of the regulatory framework that determine how NSPs are incentivised and compensated for providing regulated services, and the regulatory determination process.

11 The Review will focus on four central policy areas that matter for consumers:

1. What services do we need networks to provide in the future?
2. How can the economic regulatory framework ensure that networks deliver regulated services efficiently?
3. Does the economic regulatory framework support consumer outcomes through appropriate risk allocation and compensation of risk?
4. Does the regulatory determination process support positive consumer outcomes?

12 We have split the Review in two 'packages' to answer these questions:

- **Package 1** (**focus of this paper**) will cover policy area 1. It will focus on the service classification and ring-fencing framework. In particular, it will focus on how different services provided by NSPs are classified, the ring-fencing and other tools currently used to ring-fence regulated network services from contestable services, and the treatment of assets used to provide regulated and unregulated services. The Review has been planned as a six-month sprint to determine the Commission's recommendations on key policy principles, concluding at the end of 2026.
- **Package 2** will cover policy areas 2-4. It will be initiated shortly and is planned to run until the end of 2027. Further information on the scope of Package 2 is set out in the Final Terms of Reference.

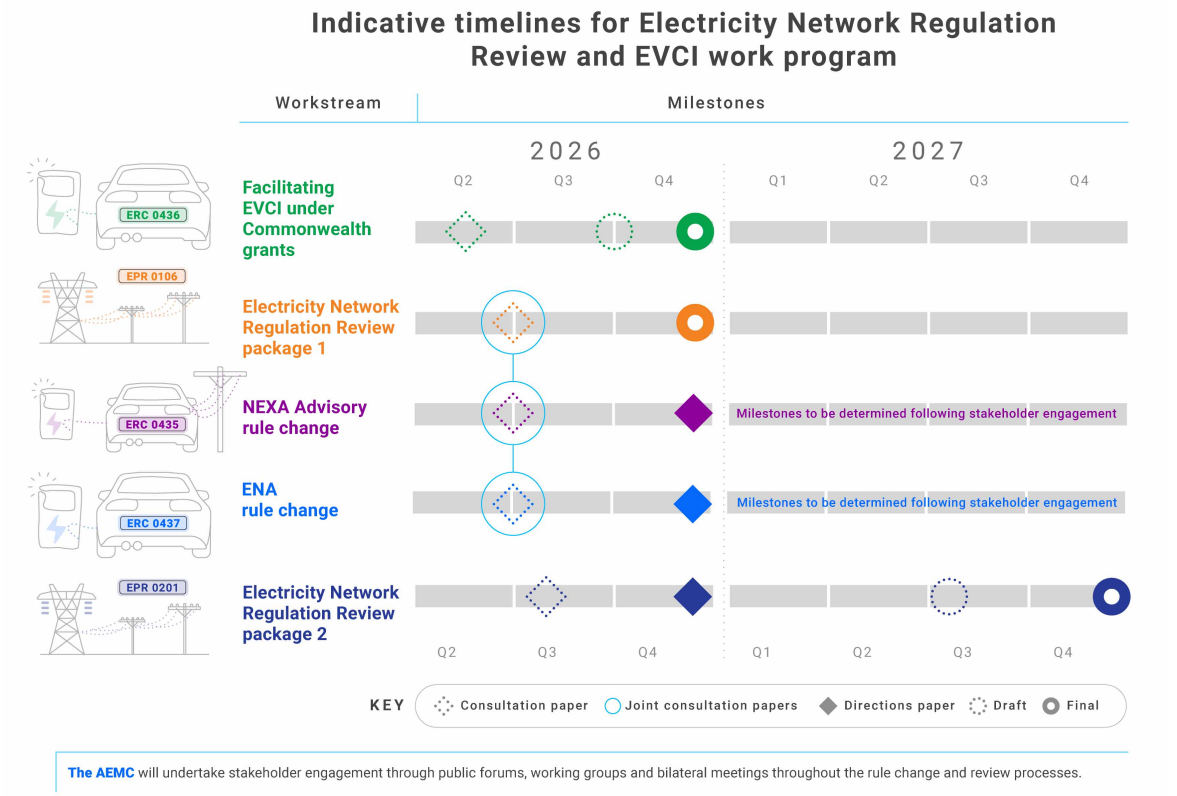
13 Package 1 is being initiated through this paper alongside the two related rule change requests from Nexa and ENA, which focus on ring-fencing and EVCI, respectively. At the end of the

Package 1 Review, the rule change requests will be subject to further rounds of consultation in 2027 before final determinations are made.

14 There is another EVCI-related rule change request from the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW), which we are considering through a separate rule change process. The *Facilitating electric vehicle charging infrastructure under Commonwealth grants* rule change request relates to a $40 million grant program to facilitate the rollout of EVCI. The proposal is time-limited and only applies to the assets and services provided under the program. A consultation paper on this rule change request was published on 28 May 2026.

15 The infographic below shows how the ENRR and the rule changes will be progressed.

Figure 1: How the ENRR and rule changes will be progressed



Source: AEMC

16 The Review will not focus on aspects of the regulatory framework that fall within the areas of minimum standards and requirements for NSPs, network planning and network pricing. These aspects of the regulatory framework are either currently being considered or have recently been considered in complementary work by the AEMC or another body.

17 We note we have recently completed our Pricing Review.[1] The ENRR and Pricing Review deal with different but connected parts of the network regulatory framework. The Pricing Review focused on how consumers should contribute to the efficient costs of providing those network services. These issues, and the issues being explored in ENRR, are closely linked. Better network tariffs can

1 AEMC, The pricing review - Electricity pricing for a consumer-driven future, June 2026.

help consumers make fairer contributions to shared network costs, while also rewarding actions that reduce the need for future network spending. The ENRR will therefore build on the Pricing Review's recommendations.

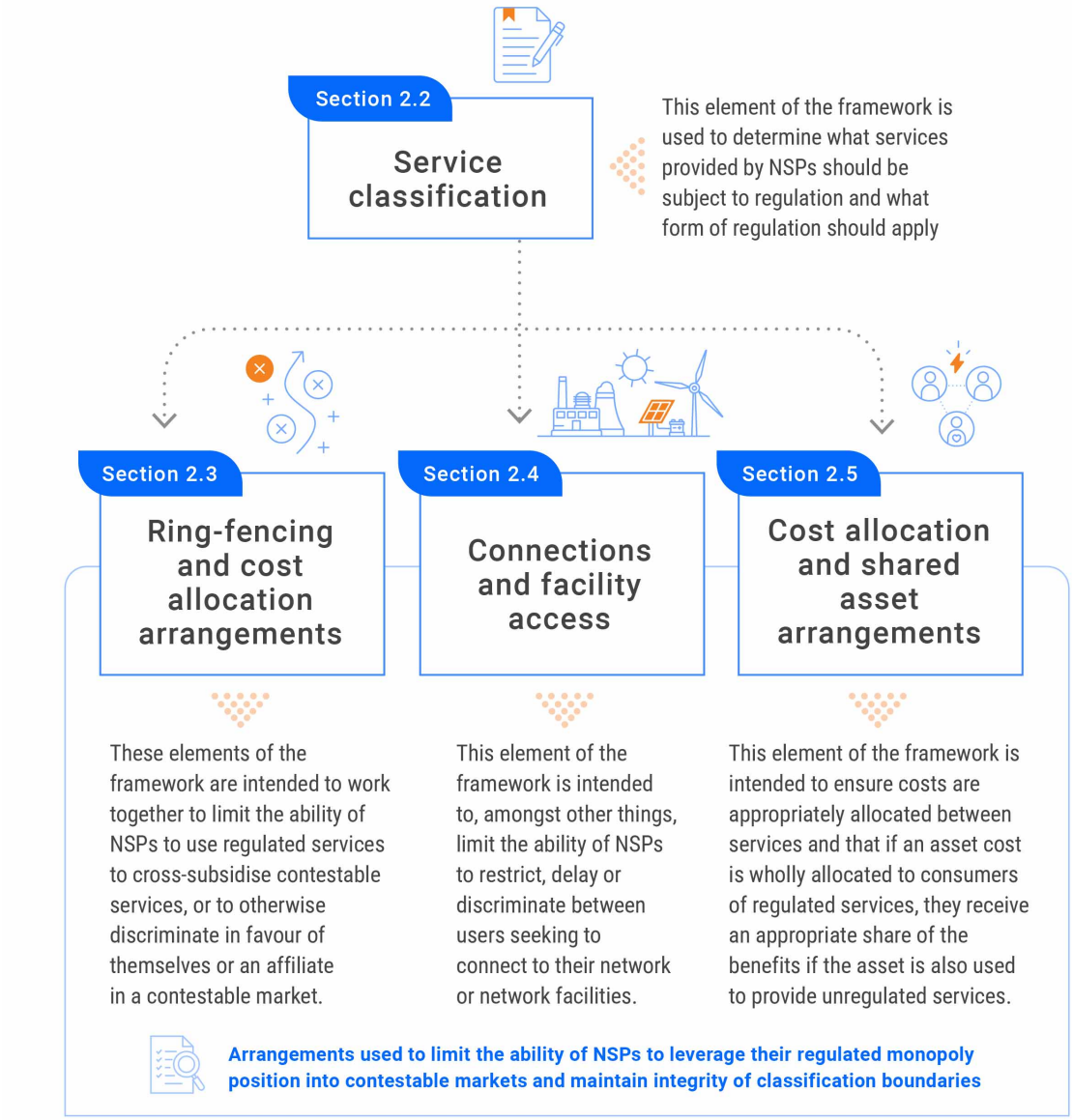
This paper seeks your views on whether changes are needed to the service classification and ring-fencing framework

18 Technological change and growth in CER, together with changing consumer preferences and government policies are leading to the emergence of new energy services, which retailers, aggregators and other third party providers are increasingly competing to provide.

19 The same factors are also leading to changes in the role that NSPs are expected to play in the NEM and the services they are expected to provide. This is particularly the case at the distribution level, with the role played by distribution network service providers (DNSPs) expected to continue to evolve as they increasingly become distribution system operators (DSO).

20 These changes are challenging some elements of the service classification and ring-fencing framework (see Figure 2), particularly at the distribution level. While most of the challenges to date have been observed at the distribution level, similar challenges could emerge at the transmission level in the future. We are therefore considering whether this element of the economic regulatory framework for both transmission and distribution networks is operating as intended, or if reforms are required to ensure it remains fit for purpose and continues to promote the long-term interests of consumers.

Figure 2: Package 1 of the ENRR



Source: AEMC

Are changes needed to the service classification arrangements?

21 The process of distinguishing between those network services that can only be provided by NSPs and those that can be provided on a contestable basis is referred to as '**service classification**'. This process is also used to determine if direct economic regulation, a negotiate-arbitrate framework or no economic regulation should apply to network services.

22 The service classification process has important practical consequences for defining the boundaries between regulated and contestable services, the form of regulation that applies to each service and the application of ring-fencing and cost allocation arrangements. It also has implications for the potential for competition to emerge in the provision of contestable services.

23 The energy transition is resulting in a number of changes that may challenge the service classification arrangements in the future. It is, for example:

- supporting the emergence of new energy services and service delivery models and leading to changes to the services that NSPs are expected to provide
- testing the boundaries between those network services that should be subject to economic regulation and those that are contestable and should be left to the market to provide.

Are changes needed to the ring-fencing arrangements?

24 Ring-fencing arrangements are intended to ring fence regulated network services from other services and limit the ability of NSPs to impede competition in contestable markets by, for example:

- using regulated services to cross-subsidise their activities in contestable markets
- discriminating in favour of itself (or an affiliate) in a contestable market.

25 The emergence of new technologies, services and service delivery models is challenging these arrangements, particularly at the distribution level. Some insight into these challenges can be found in the recent Australian Energy Regulator (AER) EVCI and community battery related ring-fencing and regulatory sandbox waiver decisions.

26 Several retailers and third party providers questioned the adequacy of the current ring-fencing obligations through these processes. They have also opposed NSPs obtaining ring-fencing waivers to provide contestable services, even on a trial basis, because of the potential harm this could have on competition and consumers over the longer term. NSPs and some other parties, on the other hand, have pointed to the potential consumer benefits that may flow from their provision of these services.

Are changes needed to the connection and facility access arrangements?

27 The ability to access network connections, or other network facilities (e.g. power poles), on fair, reasonable and non-discriminatory terms is critical for generators, retailers, aggregators and other energy service providers seeking to enter and effectively compete in contestable markets.

28 The energy transition is driving strong demand for new connections across both transmission and distribution networks. This demand is primarily being driven by CER, renewable generation, grid-scale storage, data centres and EVCI. This growth in demand is reportedly placing pressure on existing connection arrangements, with stakeholders raising concerns about the timeliness, cost and complexity of the connection process, as well as inconsistencies between transmission and distribution arrangements.

29 From a service classification and ring-fencing framework perspective, concerns have also been raised about the potential for NSPs' connections and/or facility access processes to act as a barrier to entry to contestable markets and the effectiveness of the negotiate-arbitrate framework in constraining the potential exercise of market power by NSPs.

Are changes needed to the treatment of multi-service assets?

30 NSPs may use individual assets to provide multiple services (i.e. regulated, negotiated and/or unregulated services). The way in which the costs of these assets are allocated between services and recovered from customers is currently determined through the cost allocation and shared asset arrangements.

31 The cost allocation and shared asset arrangements were developed at a time when asset use was

more clearly defined and static in nature, with assets primarily used to provide regulated services and occasionally used to generate additional revenue from relatively passive assets (e.g. pole access). The shared asset arrangements were developed to incentivise NSPs to use assets that provide regulated services to also provide unregulated services where that use is efficient, and to share that part of the asset cost recovered from users of the unregulated services with consumers who have funded those assets.

32 The sustainability of the current approach is being challenged by the emergence of more complex multi-service assets that can be used to provide multiple services simultaneously. A community battery can, for example, simultaneously provide network support, wholesale market and customer services and generate relatively dynamic value streams from each of these services.

33 The current approach is also being challenged by the fact that the use of specific assets can change over time, yet cost allocation decisions are typically not revisited once the initial allocation is made.

We are seeking your views on Nexa's rule change request on distribution ring fencing

34 Nexa has submitted a rule change request, which seeks to strengthen the distribution ring-fencing arrangements to address what it describes as "existing deficiencies and emerging competitive challenges within contestable energy service markets".

35 It expressed concerns about the increasing involvement of DNSPs in contestable markets and the perceived weakening of DNSP ring-fencing arrangements in its rule change request. Nexa considers that, as a result of a series of waivers, trials and incremental relaxations of the ring-fencing arrangements, there has been a reduction in the "safeguards intended to preserve competitive neutrality". It is of the view that this will undermine competition by discouraging entry and investment by potential third party providers in these markets and harm consumers because the benefits of competition will not be realised.

36 Nexa has proposed that the ring-fencing provisions and associated governance arrangements in Chapter 6 of the NER be strengthened by:

- elevating core ring-fencing obligations and waiver conditions from the AER's distribution ring-fencing guidelines into the NER
- only allowing DNSPs to obtain ring-fencing waivers as a last resort where there is an independently verifiable market failure and measurable consumer benefit
- providing more guidance in the NER on affiliate dealings and data access, and branding and cross-promotion_ring-fencing obligations
- introducing financial resilience requirements that can be used to financially ring-fence a DNSP if its financial position deteriorates, and
- providing for greater transparency of the AER's compliance monitoring and enforcement activities and establishing a ring-fencing complaint handling process.

37 We are interested in stakeholders' views on the materiality of the issues raised by Nexa, the solutions proposed as well as any alternative solutions to address the issues. We are also interested in the costs and benefits of potential solutions.

We are seeking your views on ENA's rule change request related to kerbside EVCI

38 The ENA has submitted a rule change request to address what it describes as a 'chicken and egg' problem with the uptake of electric vehicles and the deployment of EVCI and to 'unlock affordable EV charging' that is accessible to the public. The ENA considers that public EV charging is important for reducing emissions in the transport sector and for better utilising the capacity of the existing electricity grid.

39 The ENA says a DNSP EVCI rollout would provide benefits, including improved utilisation of existing distribution network assets and enabling EVCI to be rolled out more rapidly and at lower costs, but DNSPs are currently prevented from performing this role because EVCI services are not classified as a direct control service.

40 The ENA proposes changes to the NER, including to the service classification provisions in Chapter 6, which at a high level would allow:

- DNSPs to roll out kerbside EVCI connected to existing distribution assets (e.g. power pole mounted EVCI) on an ongoing basis and provide retailers and other commercial suppliers of EV charging services (EV charging service providers) open access to EVCI services
- EV charging service providers to compete to supply electricity and charging services to EV users at the EVCI charging point on an ongoing basis.

41 The changes proposed would allow DNSPs to recover the costs of rolling out kerbside EVCI from electricity consumers through regulated charges and to use their existing infrastructure, workforce and systems to roll out the EVCI. The proposal would also require DNSPs intending to install EVCI to publish a Distribution EVCI Deployment Strategy.

42 We are interested in stakeholders' views on the materiality of the issues raised by ENA, the solutions proposed as well as any alternative solutions to address the issues. We are also interested in the costs and benefits of potential solutions.

Five assessment criteria will help us assess potential reforms in this review and the rule change requests

43 Considering the NEO[2] and the issues raised in the Review terms of reference and the rule change requests, the Commission proposes to assess the potential reforms and rule change requests using the following assessment criteria:

- **Outcomes for consumers:** Promoting the long term interests of electricity consumers is a central tenet of the regulatory framework and as consumers become more active in the electricity market, it is becoming increasingly important to ensure that the market is delivering the outcomes consumers expect. We intend therefore to consider the extent to which the proposed rule changes and reform options identified through the Review will promote consumer interests.
- **Principles of market efficiency:** The regulatory framework is intended to promote economic efficiency, both in the provision and use of electricity services in contestable and non-contestable markets. As the energy transition progresses, market efficiency is likely to be increasingly challenged, including due to increased risk and uncertainty. We intend to consider the extent to which the proposed rule changes and reform options identified through the Review will promote productive, allocative and dynamic efficiency in the provision and use of

2 Section 7 of the NEL.

network and other electricity services, provide appropriate incentives, efficiently allocate risks and foster competition in contestable markets.

- **Innovation and flexibility:** As the energy transition progresses, it will be increasingly important for the regulatory framework to support innovation and flexibility. We intend to consider the extent to which the proposed rule changes and reform options identified through the Review will support innovation and provide for the benefits of innovation to be passed through to consumers and be sufficiently flexible to accommodate market, technological, policy, climate and other changes.
- **Emissions reduction:** Network regulation, including the determination of what services are regulated and how ring-fencing will apply, can have a direct impact on consumer and NSP behaviour and the achievement of emissions reduction targets. We intend to consider the impact that the proposed rule changes and any reform options identified through the Review may affect the achievement of jurisdictions' emissions reduction targets.
- **Principles of good regulatory practice:** Any potential changes to the regulatory framework arising as a result of either the rule change requests, or reform options identified in the Review will need to emulate principles of good regulatory practice. We intend to consider the extent to which the proposed rule changes and reform options identified through the Review will provide for a predictable and stable regulatory framework, promote transparency and simplicity for all stakeholders, support flexibility and resilience in the regulatory framework by employing a principles-based approach, except where prescription is necessary and align with the broader direction of reforms.

44 We have also proposed a prioritisation framework for the Review that will ensure we balance the depth of the Review with timeliness of delivery. The policy prioritisation framework is based on the following criteria:

- ***Materiality*:** How significant is the issue and how strong is the evidence base? How much do consumers stand to benefit from addressing this issue?
- ***Implementation feasibility*:** Are other practical solutions available? Can solutions be implemented by the AEMC through NER changes, or do they require agreement and coordination from other actors (e.g. Energy Ministers)? If coordination is required, how difficult will it be?
- ***Other processes*:** Is there another rule change process already underway, or are there formal review processes already established, that are better placed to review this aspect of the framework and efficiently address the identified issue?
- ***Separability*:** Is this an issue that is difficult to consider in isolation such that it should be considered through a holistic review of this nature? Or can it be separated and progressed through a stand-alone process that would likely lead to faster resolution of the issue (e.g. a rule change or other process)?

45 We have used this framework to identify what issues to focus on in this Package 1 consultation paper. We intend to apply the same framework when considering whether to include any additional issues identified by stakeholders through the consultation process.

46 We are seeking feedback on both the assessment criteria and our proposed prioritisation framework.

Submissions are due by 23 July with other engagement opportunities to follow

47 There are multiple options to provide your feedback throughout the Review and rule change processes.

48 Written submissions responding to this consultation paper must be lodged with the Commission by **23 July 2026** via the Commission's website, www.aemc.gov.au.

49 We have included questions in most chapters to guide feedback, and the full list of questions is below. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making recommendations on the Review and decisions on the rule change requests.

50 We note the large number of questions included in this joint consultation paper covering Package 1 of the Review and the two rule change requests. We encourage stakeholders to only respond to the consultation questions that they have a particular interest in and view on. Stakeholders should also specify whether their submission relates to the Review and/or which rule change proposals their submission relates to.

51 There are other opportunities for you to engage with us, such as one-on-one discussions, in person public forums and industry briefing sessions. See the section of this paper about "How to engage with us" for further instructions and contact details for the project leader.

52 We have extended the time to make a draft determination for both rule change requests to 20 May 2027. This will provide us with time to consider the complex issues raised in the rule change requests, including by developing a Directions Paper for consultation at the end of 2026.

Full list of consultation questions

Question 1: Prioritisation framework for the Review

1. Do you have any feedback on our approach to the Review, including the proposed prioritisation framework?

Question 2: What network services should be subject to economic regulation and are changes to the service classification framework required?

1. What, if any, changes do you think should be made to the service classification arrangements (including the timing of when service classification decisions are made) to ensure they remain fit for purpose into the future and sufficiently flexible to accommodate the changes underway?
2. Do you think there are any circumstances in which it would be in the long term interests of consumers for NSPs to provide regulated services in contestable markets? If so, please explain:
   a. what those circumstances are
   b. how this would work in practice
   c. how the framework should limit the ability of networks to leverage their regulated monopoly position to limit competition in contestable markets.

3. Is additional guidance required in the NER on:
   a. how the boundaries between regulated and contestable (unregulated) services should be drawn?
   b. how to accommodate the new DSO role for DNSPs?
4. Are there any other issues with the current service classification arrangements that you think we should consider in this Review?
5. Are any other changes to the regulatory framework required to support the increasing importance of efficient and effective coordination between NSPs and other market participants?

Question 3: Are changes required to the ring-fencing arrangements?

1. How effective do you think the ring-fencing obligations have been to date, in terms of preventing the cross-subsidisation of contestable activities and discriminatory behaviour? What changes, if any, are required to ensure they remain fit-for-purpose in the future?
2. How effective do you think ring-fencing waivers have been to date in promoting the long-term interests of consumers? What, if any, changes do you think should be made to ensure they remain fit for purpose into the future?
3. Are there any other problems with the ring-fencing arrangements or ring-fencing waivers that you think we should consider in this Review?
4. Do you think that there would be any change in the number of applications for ring-fencing waivers if there was more clarity around what services are distribution services and what services are not distribution services?

Question 4: Are changes required to the connection and/or facility access arrangements?

1. Do you think the current connection and/or facility access arrangements are acting as a barrier to entry into contestable markets? If so, how?
2. Do you think changes are needed to the regulatory framework for negotiating connections and/or facility access arrangements? If so, what changes are required?
3. Are there any other service regulation related issues with the connection and/or facility access arrangements that you think we should consider in the review?

Question 5: Are changes required to the cost allocation and/or shared asset arrangements?

1. Do you think that changes should be made to the cost allocation and/or shared asset arrangements? If so, what changes are required?
2. How do you think the costs and benefits associated with assets, such as community batteries, should be accounted for when making cost allocation decisions?

3. Do you think that the allocation of costs for shared assets should be revisited over time? Please explain your answer.
4. Do you think that the current approach to cost allocation and shared asset arrangements, if maintained, should extend to negotiated services?

Question 6: Nexa rule change request - Do the ring-fencing arrangements in the NER need to be strengthened?

1. Do you agree with Nexa's framing of the issues raised it its rule change request? Why/why not?
2. Do you think that there are any deficiencies in any of the following areas of the distribution ring-fencing arrangements that need to be addressed? If so, what are the deficiencies and how material are they:
   a. ring-fencing waiver conditions
   b. affiliate dealings and data access
   c. branding and cross-promotion
   d. financial resilience ring-fencing
   e. reporting, complaints and enforcement transparency?
3. Do any of the problems that Nexa has identified in relation to the distribution ring-fencing arrangements also apply to the transmission ring-fencing arrangements?

Question 7: Nexa rule change request - Would Nexa's proposed solution address the identified problem?

1. Do you consider that Nexa's proposals would most efficiently address the issues identified in the rule change request? Why/why not?
2. What are your views on Nexa's proposals to:
   a. change the ring-fencing governance arrangements by elevating core ring-fencing obligations and waiver conditions into the NER?
   b. amend the NER to only allow ring-fencing waivers as a last resort?
   c. address other potential deficiencies in the current ring-fencing arrangements?
3. If core ring-fencing obligations were to be elevated into the NER as proposed by Nexa, what ring-fencing obligations do you think should be specified in the NER and what should be left to the AER's ring-fencing guidelines?
4. Are there any other implementation-related matters that we would need to consider if Nexa's proposed rule change were to be made (e.g. timeframes or grandfathering existing ring-fencing waivers)?
5. Do you think Nexa's proposed solution should only apply to the distribution ring-fencing arrangements, or should it also apply to the transmission arrangements?

6. Are there alternative solutions that would more efficiently address the identified problem and that would be more consistent with the NEO that you think the AEMC should consider? If so, describe what those solutions are and how they would be more consistent with the NEO.

Question 8: Nexa rule change request - What are the costs and benefits of Nexa's proposed solution?

1. What do you consider the costs and benefits of Nexa's proposed solution, including the risks and benefits of elevating ring-fencing obligations into the NER?

Question 9: ENA rule change request - Do you agree with ENA that there is a problem with the roll out of EVCI?

1. Do you think that there is a 'chicken and egg' problem with EVs and kerbside EVCI? If so:
   a. how material do you think this problem is?
   b. do you think it is a permanent or temporary problem?
   c. do you think the problem is limited to:
      i. kerbside AC slow charging (<24kW), or does it apply more generally to other forms of EVCI, including DC fast charging (>24kW)?
      ii. particular locations (e.g. regional areas) or does it apply in all locations, including metropolitan areas?
   d. how do you think this problem could be best addressed and do you think this should be funded by electricity consumers or other mechanisms?
2. Are there any other problems or barriers that you think third party providers might face in developing kerbside EVCI that could be addressed through the NER?
3. Do you think that DNSPs could roll out kerbside EVCI at a lower cost and faster rate than other providers, if the proposed rule were made? If so, why do you think DNSPs have this advantage over other third party providers?
4. How do you think the market for the provision of public EV charging services is likely to evolve over time?

Question 10: ENA rule change request - Would the ENA's proposed solution address the identified problem?

1. Do you consider the ENA's proposal to amend the NER to enable DNSPs to install, own and maintain EVCI and to provide distribution EVCI services on an open access basis would most efficiently address the issue identified in the rule change request? If not, why?
2. Do you consider that the distribution EVCI service identified by ENA should be a 'distribution service' (i.e. a service provided by means of, or in connection with, a distribution system)? Why/why not?

3. Do you have any feedback on the proposed requirement for a DNSP to develop a deployment strategy? Would any additional regulatory oversight be required?
4. If the ENA's proposed rule change was to be made, do you think any constraints or time-limits should be imposed?
5. Do you agree with the proponent's proposal that DNSPs should be able to recover costs in the current regulatory control period through a reopener if they wish to provide EVCI in the current period? Why/why not?
6. Economic regulation can, in some cases, be beneficial in establishing service standards and outcomes that deliver the services required by customers. Do you consider that would be a potential benefit of ENA's proposed solution in the case of kerbside EVCI?
7. Are there alternative solutions that would more efficiently address the identified issues and be more consistent with the NEO that you think the AEMC should consider? If so, please describe the solutions and explain how they would be more consistent with the NEO.

Question 11: ENA rule change request - What are the costs and benefits of ENA's proposed solution?

1. What do you consider the direct and indirect costs and benefits over the short and longer term would be of the ENA's proposal to amend the NER to enable DNSPs to roll out EVCI and to provide EV charging service providers open access to EVCI services?
2. Do you think these costs and benefits would differ depending on whether the AER classifies the service as a standard control service or an alternative control service? Are there any other interdependencies (e.g. with government policies) that we should take into account?

Question 12: Assessment criteria

1. Do you agree with the proposed assessment criteria, which would be used for both the Nexa and ENA rule change requests and the Review? Are there any additional criteria that you think the Commission should consider, or are there criteria that you consider are not directly relevant to the issues likely to be considered in the rule change requests or the Review?

How to make a submission

We encourage you to make a submission

Stakeholders can help shape solutions by participating in the Review and rule change processes. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality recommendations and rule changes.

We have included questions in each chapter to guide feedback, and the full list of questions is above. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

How to make a written submission

Due date: Written submissions responding to this consultation paper must be lodged with the Commission by **23 July 2026**.

How to make a submission: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab. If your submission relates to the review (ENRR) select the project reference code **EPR0106**. If your submission relates specifically to one of the rule changes, select either **ERC0435** or **ERC0437** for the Nexa or ENA rule changes respectively.[3]

Tips for making submissions are available on our website.[4]

Publication: The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive, defamatory, vexatious or irrelevant content, or content that is likely to infringe intellectual property rights).[5]

Other opportunities for engagement

There are other opportunities for you to engage with us, such as one-on-one discussions, in-person public forums and workshops.

Our first public forum will be held in Sydney in August 2026. More details, including how to book, will be available on the project page and in our weekly newsletter.

If you would like to speak with the project team, please reach out using the details below or use the contact project leader button on the project page.

For more information, you can contact us

Please contact us with questions or feedback at any stage, noting the project code.

Email:	aemc@aemc.gov.au
Telephone:	(02) 8296 7800

3 If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.

4 See: https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips

5 Further information is available here: https://www.aemc.gov.au/contact-us/lodge-submission

Contents

Tables

Figures

1 The context for the ENRR review and the rule change requests

We have commenced a review of the regulatory framework for electricity networks to ensure it remains fit for purpose as the energy system changes. This consultation paper is the first step in the Electricity Network Regulation Review (ENRR or Review). It focuses on what services transmission and distribution Network Service Providers (NSP) should provide in the future (Package 1), with an additional consultation paper to follow on other aspects of the framework for revenue setting for regulated services (Package 2).

This consultation paper focuses on what, if any, changes may need to be made to the service classification and ring-fencing framework in the NER to:

- provide more guidance on how the boundaries between regulated and contestable services should be drawn in a way that promotes the long term interests of consumers
- strengthen the ring-fencing and other tools used to limit the ability of networks to use regulated services to cross-subsidise their activities in contestable markets, or discriminate in favour of themselves (or an affiliate) in a contestable market
- ensure that network connection and facility access processes do not impede competition in contestable markets
- accommodate the emergence of more dynamic and complex multi-service assets, such as community batteries, which provide both regulated and unregulated services.

We are also consulting on two rule change requests through this paper, as the rule change requests propose changes to the rules that raise important questions about what services NSPs should provide and the ring-fencing arrangements that should apply. The two rule change requests are:

1. ***Clarifying distribution ringfencing in emerging energy markets***. This rule change request from Nexa Advisory (Nexa) proposes changes to strengthen the ring-fencing arrangements that apply to distribution NSPs (DNSPs) by moving the obligations from an Australian Energy Regulator (AER) guideline to the National Electricity Rules (NER), adding additional protections and limiting the circumstances in which networks can obtain waivers from the ring-fencing requirements.
2. ***Enabling DNSP led electric vehicle charging infrastructure.*** This rule change request from Energy Networks Australia (ENA) proposes changes to enable DNSPs to provide kerbside EV charging infrastructure (EVCI) as a regulated service (direct control service) with costs recovered from electricity consumers.

The joint consultation approach enables the Commission to assess each against a consistent set of policy principles and in the broader context of the evolving regulatory framework.

The Nexa rule change can be found on our website here. The ENA rule change can be found on our website here.

Further details on our approach to the review and the rule changes can be found in section 1.2 below and in the final Terms of Reference for the Review.

1.1 Reasons for the review

1.1.1 Electricity network regulation matters for consumers

Electricity is fundamental to our way of life, and the design choices we make about the electricity system and the network regulatory framework have a direct impact on people's quality of life. These choices determine the reliability of supply, the amount consumers pay, and have broader environmental considerations. The price of electricity also affects the broader economy and the international competitiveness of our industries. Between 2024 and 2026, changes in energy prices added or subtracted between 0.5 and 0.7 percentage points from headline inflation at different points.[6]

The way we regulate electricity networks matters for these outcomes. Electricity networks are generally considered natural monopolies because a single service provider can provide core network services more efficiently and at a lower cost than multiple competitors. While beneficial to consumers, being the only supplier of network services in a geographic area means NSPs are not subject to the same discipline they would face in a workably competitive market. They may not, therefore, have strong incentives to deliver the services that customers want at prices that reflect the efficient cost of supply.

NSPs may also be able to use regulated services to cross-subsidise their contestable activities, or engage in other behaviours that may affect competition in contestable markets, such as restricting access to the network or engaging in discriminatory behaviour.

As a result, monopoly electricity networks operate under a highly regulated framework. They are subject to obligations and controls that, amongst other things, determine the services they can (or must) provide, how those services are regulated and the ring-fencing and other restrictions that apply if the NSP (or an affiliate) also operates in contestable markets.

The integrity of this framework has a strong bearing on overall outcomes for electricity consumers, both in terms of:

- what they must pay for regulated network services (which typically account for between a third and half of customers' final bills),[7] and
- the benefits that can flow from competition in those parts of the market that are contestable (e.g. more efficient prices, greater consumer choice and product innovation).

1.1.2 The framework needs to adapt to reflect the energy transition

The ways in which electricity is produced, transported and consumed are changing and the importance of electricity to both individuals and the broader economy is increasing. These changes are being driven by technological development, government policy, the emergence of new services and service delivery models, changes in NSP functions and the individual decisions of millions of households and businesses. Key changes include:

- **A changing supply mix**: Generation from renewable sources supplied over 50 per cent of electricity in the National Electricity Market (NEM) at the end of 2025, up from around 10 per cent just 15 years ago.[8] New renewable generation is often located in different parts of the

6 The introduction of electricity rebates (as well as lower fuel prices) was estimated to reduce headline inflation by 0.7 percent in the September 2024 quarter (Source: RBA, *Statement on monetary policy*, November 2024). Similarly, electricity price increases (including the reversal of these subsidies) added an estimated 0.5 percentage points to headline inflation in 2025 (source: RBA, *Statement on monetary policy*, February 2026).

7 The network component in the AER's default market offer 7 (2025-26) made up between 33% and 48% of customer prices. AER, *2026-27Default market offer prices, Final determination*, 26 May 2026.

8 AEMO, *Quarterly Energy Dynamics Q4 2025*, January 2026; AER, *State of the energy market*, 2011, p. 27.

electricity system than the thermal generation it replaces. That creates a need for major transmission investment, new transfer capacity and new approaches to system operation.

- **Consumers are becoming more active participants in the electricity system**: Rooftop solar is now three times as common in Australia as backyard swimming pools and nearly half a million home battery systems have been installed in the past five years. These technologies change the relationship between consumers and networks, shaping what consumers require of, and can provide to, electricity networks. The growth of these consumer energy resources (CER) is also leading to changes in expectations of electricity networks and the services they are expected to provide.
- **Electrification and changing network use:** Electric vehicles, process heat, data centres and other new sources of demand may require significant network investment. Around 1 in 6 new cars sold in April 2026 were fully electric, and jurisdictions such as Victoria and the ACT have implemented policies to transition households and small businesses away from natural gas. However, network capability is an essential enabler of electrification in other sectors, creating challenges and interdependencies when planning electricity networks and determining the investment required. Network impacts depend not only on how much new load connects, but also on when and how that load uses the system.
- **Networks are no longer just physical delivery systems**. Transmission and distribution networks remain essential to the conveyance of electricity, but their role is expanding.
  - Transmission networks must connect new generation, support changing power flows and provide or procure services that were historically supplied by large synchronous generators.
  - Distribution networks are becoming enabling infrastructure or platforms for a wider range of services that involve the management of two-way flows of electricity. They are increasingly expected to coordinate CER and flexible loads in real time, and support the conditions needed by energy service providers and aggregators to provide services to consumers. This shift is often described in terms of a move towards a distribution system operator (DSO) role, the performance of which can affect both the efficiency with which the network is operated and the markets in which retailers, aggregators and other third party providers compete.

These changes mean that the previously clear boundaries between the regulated services that networks should provide and those that could be delivered by the market on a contestable basis (e.g., generation and retail) are increasingly being challenged. New technologies and operating approaches do not fit neatly within the existing frameworks that determine how services are regulated and which costs are recovered from different consumers.

This is particularly the case at the distribution level for emerging services and technologies that use the network, support its operation, or depend on network information, but also have customer-facing or market-facing components that may be capable of competitive supply. Examples of these emerging services and technologies include CER coordination services, flexibility services, EV charging infrastructure and community batteries.

Some of these services and technologies may also involve assets that can be used to provide multiple services and generate multiple value streams from the provision of network services and contestable customer and/or market facing services in a far more dynamic manner than multi-use assets have in the past. Other services may need to leverage communications systems and data established as part of the provision of regulated services for new purposes, introducing complexity into cost allocation and ring-fencing decisions. It is against this backdrop of increasing

interaction between network and contestable services that questions are being raised about the role that NSPs should play and the regulated services that they should provide.

Significant individual reforms to the network regulatory framework have been made over recent years to adapt to and support the changes underway.[9] However, the more fundamental challenges in the regulation of electricity networks require holistic consideration and may require reform across a range of areas. It is essential that the regulatory framework that governs NSPs remains fit for purpose and continues to promote the long-term interests of consumers as we progress through the energy transition.

1.2 Our approach to the electricity network regulation review

The Commission is initiating the Review under section 45 of the National Electricity Law (NEL)[10].

There is a broad range of topics that could potentially be considered by this Review. We will focus on areas where our recommendations are most likely to deliver the greatest improvement in consumer outcomes, prioritising those with meaningful issues that are not being examined (or have not been recently examined) through other processes.

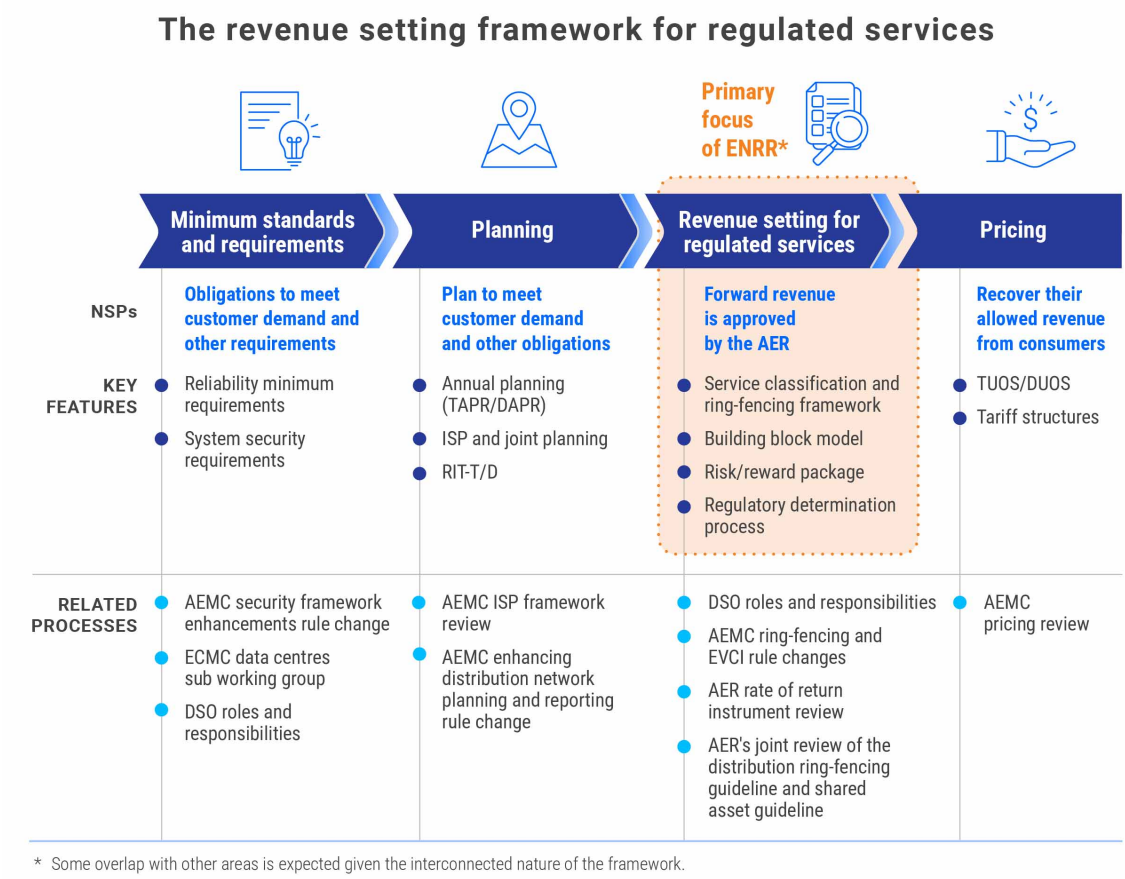
Our review will focus on the aspects of the framework that determine how the revenue required for the provision of regulated services is determined.[11] This includes those aspects that determine the network services that NSPs provide that should be subject to economic regulation, how NSPs are incentivised and compensated for providing these regulated services, and the regulatory determination process.

9 This has included: creating new obligations for TNSPs to provide inertia and system strength under the *Managing the rate of change of power system frequency* (2017) rule change and the *Efficient management of system strength on the power system* (2023) rule change; modifications to the way non-network options are cost recovered for system security and network augmentation purposes under the *Improving security frameworks for the energy transition* (2024) rule change and the *Improving the cost recovery arrangements for transmission non-network options* (2025) rule change; and changes to account for financing implications of major projects under the *Accommodating financeability in the regulatory framework* (2024) rule change and the *Sharing concessional finance benefits with consumers* (2024) rule change.

10 Part 4 of the NEL sets out the functions and powers of the AEMC. Under Division 5 of Part 4, the AEMC has the power to conduct a review into the operation and effectiveness of the National Electricity Rules (NER).

11 Regulated services are referred to as 'direct control services' for distribution (divided into 'standard control' and 'alternative control' services) and 'prescribed transmission services' for transmission under the National Electricity Rules.

Figure 1.1: The review will focus on the revenue setting framework for regulated services



Source: AEMC

We are focusing on these areas of the regulatory framework for two primary reasons:

- **There are meaningful and pressing issues to address.** The energy transition is impacting a number of the fundamental principles underpinning the existing framework, including the role of NSPs in contestable markets, the viability of non-network options, and the ability to make robust forecasts and estimates over the medium term. Many aspects of the framework are interconnected, making them challenging to consider in isolation. It has also been several years since a comprehensive review of this aspect of the framework was undertaken.[12]
- **Other areas have been examined through recent or ongoing work programs, or can be considered independently.** System security frameworks, network planning and network pricing have been subject to substantive work programs by market bodies or governments in recent years. We consider there to be fewer opportunities to identify new reform priorities in these areas. Other issues may be separable, meaning they are largely discrete and can be effectively addressed through a stand-alone process. This review will focus on areas that require an integrated assessment of the framework, while acknowledging that some overlap with other areas may be unavoidable, given its interconnected nature.

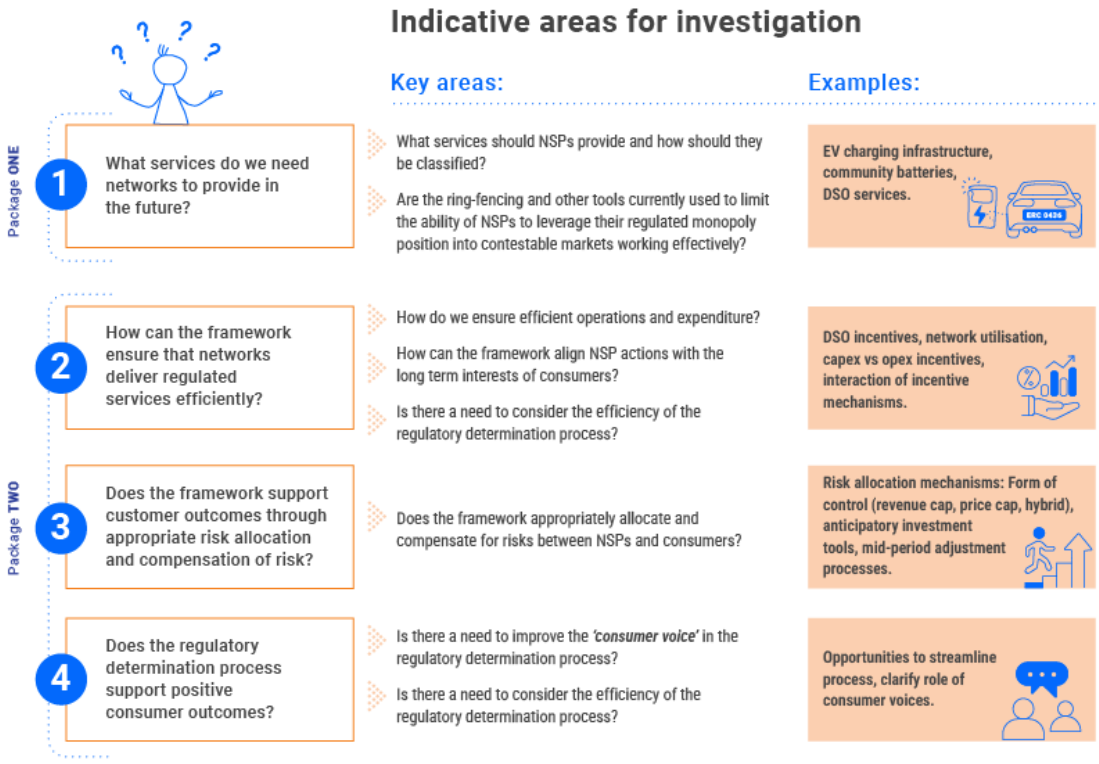
We are starting with four central policy areas that matter for consumers:

12 The last comprehensive review of the regulatory framework was undertaken by the AEMC in 2020. AEMC, Final Report: Electricity Network Economic Regulatory Framework 2020 Review, 1 October 2020.

1. What services do we need networks to provide in the future? **(focus of this consultation paper)**
2. How can the framework ensure that networks deliver regulated services efficiently?
3. Does the framework support consumer outcomes through appropriate risk allocation and compensation of risk?
4. Does the regulatory determination process support positive consumer outcomes?

We consider that this structure enables the majority of issues raised by stakeholders in our scoping work to be considered through this review. Figure 1.2 below shows indicative questions and issues for further investigation under each of the four primary areas.

Figure 1.2: The questions we will explore in the review



Source: AEMC

1.2.1 We are progressing the review across two separate packages

We have split the Review in two 'packages':

- **Package 1** (**focus of this paper**) will cover policy area 1 in Figure 1.2. It will focus on how different services provided by NSPs are classified and regulated, and the tools currently used to limit the ability of NSPs to leverage their regulated monopoly position into contestable markets. This includes ring-fencing, cost allocation, connections and facility access and shared asset arrangements. We refer to this aspect of the regulatory framework as the **service classification and ring-fencing framework**. The Review has been planned as a six month sprint to determine the Commission's recommendations on key policy principles, concluding at the end of 2026.

- **Package 2** will cover policy areas 2-4 in Figure 1.2. It will examine how the framework should support efficient service delivery, whether it provides an appropriate risk–reward package that supports efficient outcomes, and whether regulatory processes support positive consumer outcomes. It will run until the end of 2027 with multiple rounds of formal consultation along the way before making final recommendations. Further information on the scope of Package 2 is set out in the Final Terms of Reference.

Package 1 is being initiated through this paper alongside the two related rule changes from Nexa and ENA, which focus on ring-fencing and EVCI, respectively. We consider it necessary to consider these rule changes alongside the Review because they propose changes to the rules that raise important questions about what services NSPs should provide and if the ring-fencing arrangements are working effectively.

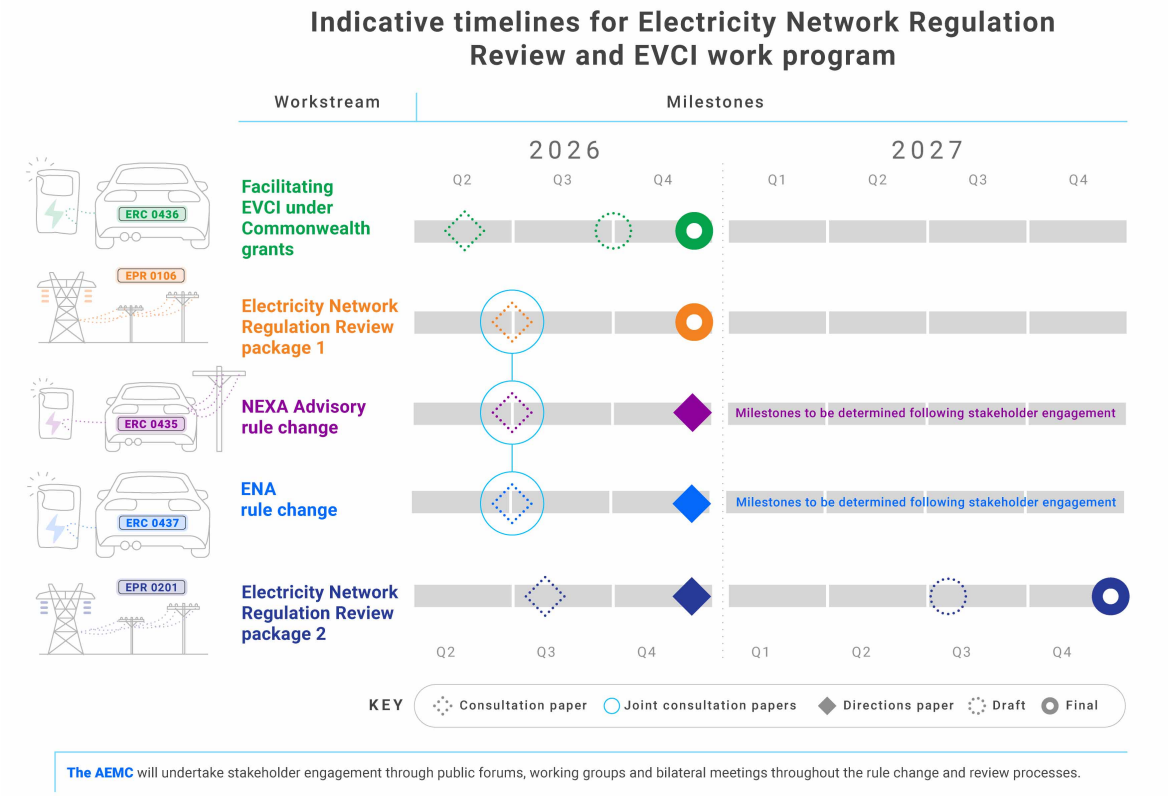
At the end of the six-month sprint, the rule changes will be subject to further rounds of consultation, before we make a final determination in 2027. This will enable a comprehensive, integrated assessment of the issues and sufficient stakeholder consultation before any rule changes are made.

There is another EVCI rule change request from the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW), which we are considering through a separate rule change process. The *Facilitating electric vehicle charging infrastructure under Commonwealth grants* rule change request relates to a $40 million grant program to facilitate the rollout of EV charging infrastructure. The proposed grant program would require DNSPs to perform certain activities and, in limited circumstances, would allow DNSPs to install EVCI in specific locations. The rule change request seeks to enable DNSPs to recover from consumers costs that DNSPs incur that are not covered by charge point operators or the $40 million grant. The proposal is time-limited and only applies to the assets and services provided under the program. A consultation paper on this rule change was published on 28 May 2026.[13]

The expected milestones for packages 1 and 2 of the review and related rule changes are shown below in Figure 1.3, noting that these may vary.

13 AEMC, Consultation paper: National Electricity Amendment (Facilitating electric vehicle charging infrastructure under Commonwealth grants) Rule 2026, 28 May 2026.

Figure 1.3: The timeframe for this review and related rule changes



Source: AEMC

1.2.2 We will further refine the focus of the review in consultation with stakeholders

Given the potentially large number of issues that may be identified and the need to ensure timely reform of the regulatory framework, we consider that the scope will need to be further focused to maximise reform impact. This will enable detailed policy analysis of areas that support the identification of tangible reforms that can be implemented promptly to improve consumer outcomes.

We have developed a policy prioritisation framework to help us transparently determine the priority of issues for further consideration under this Review.

The proposed criteria are set out in the table below and have been developed to ensure the review focuses on issues that:

1. will make a difference to consumer outcomes (**materiality**)
2. are practically implementable, focusing on issues with a lower degree of difficulty to implement (**implementation feasibility**)
3. are not already being addressed by another process, or have not recently been considered (**other process**), and
4. are not easily separable for discrete consideration through a stand-alone process, indicating that this review presents an important opportunity to consider this issue (**separability**).

Table 1.1: Prioritisation framework

Criteria	Matters we will consider
Materiality of the issue	How significant is the issue, how strong is the evidence base? How much do consumers stand to benefit from addressing the issue?
Implementation feasibility	Are other practical solutions available? Can solutions be implemented by the AEMC through NER changes, or do they require agreement and coordination from other actors (e.g. Energy Ministers)? If coordination is required, how difficult will it be?
Other process	Is there another rule change process already underway, or are there formal review processes already established, that are better placed to review this aspect of the framework and efficiently address the identified issue?
Separability of the issue	Is this an issue that is difficult to consider in isolation such that it should be considered through a holistic review of this nature? Or can it be separated and progressed through a stand-alone process that would likely lead to faster resolution of the issue (e.g. a rule change or other process)?

We have used this framework to identify the issues to focus on in this Package 1 consultation paper (see appendix A for a summary of our assessment). We intend to apply the same framework when considering whether to include any additional issues identified by stakeholders through the consultation process.

Question 1: Prioritisation framework for the Review

1. Do you have any feedback on our approach to the Review, including the proposed prioritisation framework?

1.2.3 Our review and the rule change requests will be guided by the NEO

The Review will consider potential reforms to the economic regulatory framework that applies to both TNSPs and DNSPs in the NEL and the NER. The rule change requests will consider whether changes need to be made to the NER. Our work on the Review and the rule change requests will therefore be guided by the national electricity objective (NEO), which is:[14]

> to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—
>
> (a) price, quality, safety, reliability and security of supply of electricity; and
>
> (b) the reliability, safety and security of the national electricity system; and
>
> (c) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or

14 Section 7 of the NEL. Under section 32 of the NEL, the AEMC must have regard to the NEO in performing or exercising any function or power under the NEL.

(ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

It will also be guided by:

- the **form of regulation factors** in section 2F of the NEL,[15] when we are considering what network services should be regulated and how they should be regulated (e.g. as a direct control or a negotiated network service) (see section 5.2 for an overview of the form of regulation factors)
- the **revenue and pricing principles** in section 7A of the NEL,[16] when we are considering how the revenues earned, or prices charged, by NSPs for the provision of services that are the subject of a regulatory determination are to be regulated (see section 5.2 for an overview of the revenue and pricing principles).

Considering the NEO and the issues that are likely to arise under each of the policy areas outlined above, we propose to use the following assessment criteria when considering any potential reforms to the regulatory framework:

- Outcomes for consumers
- Principles of market efficiency
- Innovation and flexibility
- Emissions reduction
- Principles of good regulatory practice.

These criteria reflect the key potential impacts – costs and benefits – of potential reforms to the regulatory framework, which we will consider within the broader framework of the NEO.

Chapter 5 provides further detail on our rationale for selecting these criteria, which we also intend to use when assessing the Nexa and ENA rule change requests.

See the Final Terms of Reference (published alongside this consultation paper) for further information on our approach to the review, including further details on stakeholder consultation.

1.3 This review fits within the broader reform landscape

Other reform processes that will start soon, are underway, or have recently been completed, have implications for this Review. Key processes include:

- **Expected rule change on DSO roles and responsibilities**: We are expecting a rule change request to embed DSO expectations, rights and obligations in the NER. This follows a decision by Energy Ministers in December 2025 to formalise DNSPs as the DSOs in the NEM.[17]
- **Retail and network pricing review:** The AEMC has recently completed its self-initiated review of electricity retail and network pricing - the Pricing Review. The review examined how markets and regulatory frameworks can provide the products and services that best match consumer preferences, now and into the future. A key area of focus for the review has been the role of distribution networks and network tariffs in enabling the right products and services for

15 Section 88A of the NEL

16 Section 88B of the NEL

17 CER Taskforce, Redefining roles and responsibilities for power system and market operations in a high CER future, December 2025. Energy Ministers, Meeting Communique, December 2025.

consumers and driving efficient network investment and utilisation. The AEMC issued its final report for the review on 18 June 2026.[18]

- **Data centres:** Energy Ministers have requested that the AEMC provide advice on the implementation of proposals that data centres in the NEM and the Western Australian Electricity Market should invest in additional renewable generation and firming in their state of operation to fully offset their electricity demand and provide demand flexibility services to avoid additional costs being borne by other energy users. The advice will consider implementation pathways and regulatory design options and is to be provided to Energy Ministers for consideration in July 2026.[19]
- **Integrated System Plan review:** The AEMC is currently undertaking a review of the Integrated System Plan (ISP) framework. We are required by the rules to complete this review by 1 July 2027. The review is considering a range of matters including the objectives of the ISP and its evolution over time to meet power system needs, its relationship with the economic assessment of transmission projects, as well as the process for developing and consulting on the ISP.
- **Distribution network planning rule change**: The AEMC published a draft determination on the *Enhancing distribution network planning and reporting* rule change request on 23 April 2026. The draft rule would require DNSPs to adopt a new distribution network planning process. It would also establish a new principles-based framework for distribution network data reporting. A final determination is due in July.

In addition to these processes, the AER has initiated a joint review of both its distribution ring-fencing guidelines and shared asset guidelines, which will follow a similar timeline to Package 1 of this review. The AER's review will consider whether these guidelines remain fit for purpose, particularly as DNSPs take on new roles in a changing energy system. Our Review, on the other hand, is considering whether more fundamental changes may be needed to the service classification and ring-fencing framework.

We intend to work closely with the AER throughout this Review and to reduce stakeholder burden where we can. We will also seek to make coordinated recommendations and reduce overlap between processes to the greatest extent possible.

1.4 The structure of this paper

The remainder of our consultation paper is structured as follows:

- Chapter 2 outlines those aspects of the service classification and ring-fencing framework that we are proposing to focus on in Package 1 of the Review.
- Chapter 3 focuses on Nexa's rule change request. It outlines the problems Nexa has identified with the current ring-fencing arrangements, Nexa's proposed solution and view on the costs and benefits associated with that solution.
- Chapter 4 focuses on ENA's rule change request. It outlines the problems that ENA has identified with kerbside EVCI, ENA's proposed solution and view on the costs and benefits associated with that solution.
- Chapter 5 sets out the matters we must consider when making our decision on the rule change requests. It also sets out the assessment criteria we intend to use for the rule change requests and the Review.

18 AEMC, The pricing review - Electricity pricing for a consumer-driven future, June 2026.
19 Energy Ministers, Meeting Communique, May 2026.

2 What services should networks provide in the future?

The Review focuses on the regulatory framework governing regulated network services, a key element of which is the service classification and ring-fencing framework.

This framework was developed over 15 years ago and used to determine the boundaries between those services that NSPs provide that should be subject to economic regulation and those services that are contestable and can be left to third parties to provide in a competitive market. We use the term 'contestable' in this chapter to refer to markets where there is either competition to provide the service, or the potential for competition between third party providers.

In addition to determining the boundaries between regulated and contestable services, the service classification and ring-fencing framework is used to determine:

- the form of economic regulation that should apply to regulated network services
- the application of ring-fencing and other tools, such as cost allocation, connections and facility access arrangements, that are intended to limit the ability of NSPs to leverage their regulated monopoly position into contestable markets
- how network assets that are used to provide multiple regulated and unregulated services are treated.

As noted in chapter 1 the boundaries between regulated and contestable services are being increasingly challenged by the energy transition, particularly at the distribution level. This is testing elements of the service classification and ring-fencing framework in the NER.

Package 1 of the Review will therefore focus on the core question of what services networks should provide in the future. We will also consider what, if any, changes may need to be made to the service classification and ring-fencing framework in the NER to:

- provide more guidance on how emerging services should be classified and the form of economic regulation that should apply to regulated network services (section 2.2)
- strengthen the ring-fencing arrangements (section 2.3)
- ensure that network connection and facility access processes do not act as an impediment to competition in contestable markets (section 2.4)
- accommodate the emergence of more dynamic and complex multi-service assets, such as community batteries (section 2.5).

These issues are discussed in further detail in the remainder of this chapter, which commences with a brief overview of the service classification and ring-fencing framework.

2.1 Overview of the service classification and ring-fencing framework

2.1.1 The service classification process determines what network services are to be regulated and the form of regulation that will apply to regulated services

Electricity networks are generally considered natural monopolies.[20] A natural monopoly may be efficient, but it can mean that NSPs are not subject to the same discipline they would face if they operated in a competitive market. For instance, they may not have strong incentives to deliver the services that customers want at prices that reflect the efficient cost of supply, or to adapt to market, technological and policy changes over time. The lack of competitive constraint can also

20 A natural monopoly arises where a single service provider can supply services at a lower cost than multiple competitors. This may arise as a result of economies of scale, which means that the average cost of providing services declines as output expands. It may also arise as a result of economies of scope, which means that the cost of supplying multiple services is lower than the cost of doing so separately.

mean NSPs have a significant degree of market power, the exercise of which can have a detrimental effect on consumers and economic efficiency across the NEM and broader economy. This is why network services that exhibit natural-monopoly characteristics, such as the transmission or distribution of electricity, are subject to significant regulatory control.

NSPs can provide a range of other non-core services (e.g. connection, metering, load control, public lighting services), for which varying degrees of competition may be possible. Whether competition is possible will depend on whether a particular service exhibits natural monopoly characteristics, or is otherwise subject to a regulatory or legislative restriction that means the NSP is the only one that can provide the service. The service may be considered contestable if there are no such barriers to competition and third parties can compete to provide it.

The process of distinguishing between those network services that can only be provided by NSPs that should be regulated is referred to as '**service classification**'. This process is also used to determine what, if any, of the following forms of regulation should apply to those services (see Figure 2.1):

- **Direct economic regulation**. This is the strongest form of regulation and is typically applied to monopoly network services, with the AER responsible for determining the revenues or prices that NSPs can recover from consumers through regulated network charges.[21]
- **Negotiate-arbitrate framework:** This lighter-handed form of regulation may be applied where a service is a monopoly service, or the NSP otherwise has substantial market power. It is typically used where there is a smaller number of relatively sophisticated users who can negotiate directly with an NSP on an informed basis for the specific services they require (e.g. connection services). If an agreement cannot be reached, then the parties can have recourse to arbitration. It is this potential for arbitration that is intended to constrain any market power an NSP may otherwise seek to exert in negotiations.[22]

Contestable network services are not generally subject to economic regulation. This is because competition is assumed to constrain any market power the NSP may have in providing those services and provide for better outcomes for consumers than could be achieved through economic regulation. NSPs remain subject to ring-fencing and other measures that limit their ability to leverage their regulated monopoly position in contestable markets.

The service classification process has important practical consequences in defining the boundaries of regulated and contestable services and the form of regulation that applies to each service. It also has implications for the application of ring-fencing and the other tools outlined in section 2.1.2.

It is important that this element of the regulatory framework is working effectively, because classification errors can have a detrimental effect on economic efficiency and electricity consumers. For instance, if:

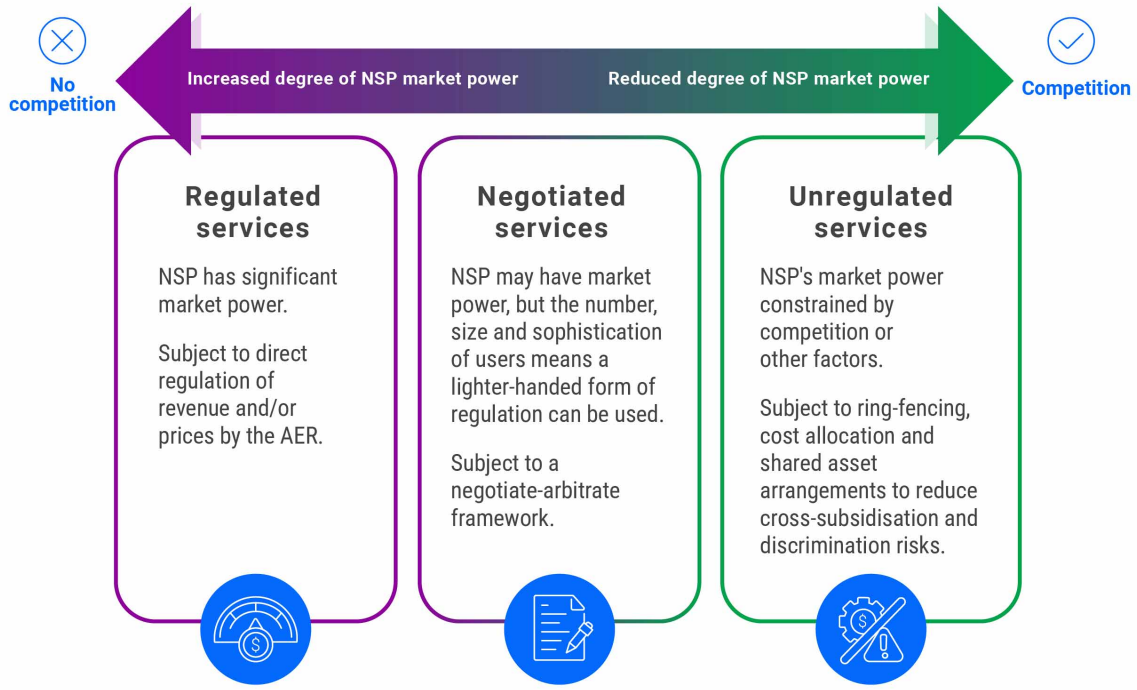
- contestable services are classified as regulated services it could enable NSPs to cross-subsidise services and discourage third parties from competing to provide the service, which could lead to less innovation, reduced consumer choice, and higher consumer prices over the longer term
- monopoly services are not classified as regulated services consumers may face excessive consumer prices, poorer service quality, and/or inefficient supply.

21 At a transmission level these services are referred to as prescribed transmission services. At a distribution level, these are referred to as direct control services, which can be further classified as standard control services or alternative control services.

22 To date, this form of regulation has primarily applied to non-contestable transmission connection services, but is now also being used for EVCI distribution asset rental in Victoria.

Further detail on the service classification process is provided in section 2.2.1.

Figure 2.1: Forms of regulation



Source: AEMC
Note: Negotiated distribution services are also subject to ring-fencing and cost allocation arrangements, but not shared asset arrangements.

2.1.2 Ring-fencing and other tools are intended to limit the ability of NSPs to leverage their regulated monopoly position into contestable markets and protect consumers

Service classification determines the regulatory treatment of each service, but it does not remove the practical connections between different parts of an NSP's business that may provide both regulated and contestable services. It does not therefore address the risk that an NSP may be able to use its access to regulated assets, operating systems, customer relationships or network information to impede competition in contestable markets that it operates in directly, or via an affiliate. This could, for example, occur if an NSP was able to:

- use regulated services to cross-subsidise their activities in contestable markets
- discriminate in favour of themselves (or an affiliate) in a contestable market by, for example:
  - hindering third party providers' access to connections or other network assets
  - providing third party providers with access on less favourable terms, and/or
  - using information acquired in the provision of regulated services to provide itself or an affiliate with an advantage.

The service classification and ring-fencing framework includes the following measures that are intended to reduce the risk that NSPs engage in these types of behaviours (see Figure 2.2):

- ring-fencing arrangements
- cost allocation arrangements[23]

23 The cost allocation arrangements have a broader purpose in terms of allocating costs between the range of network services NSPs provide.

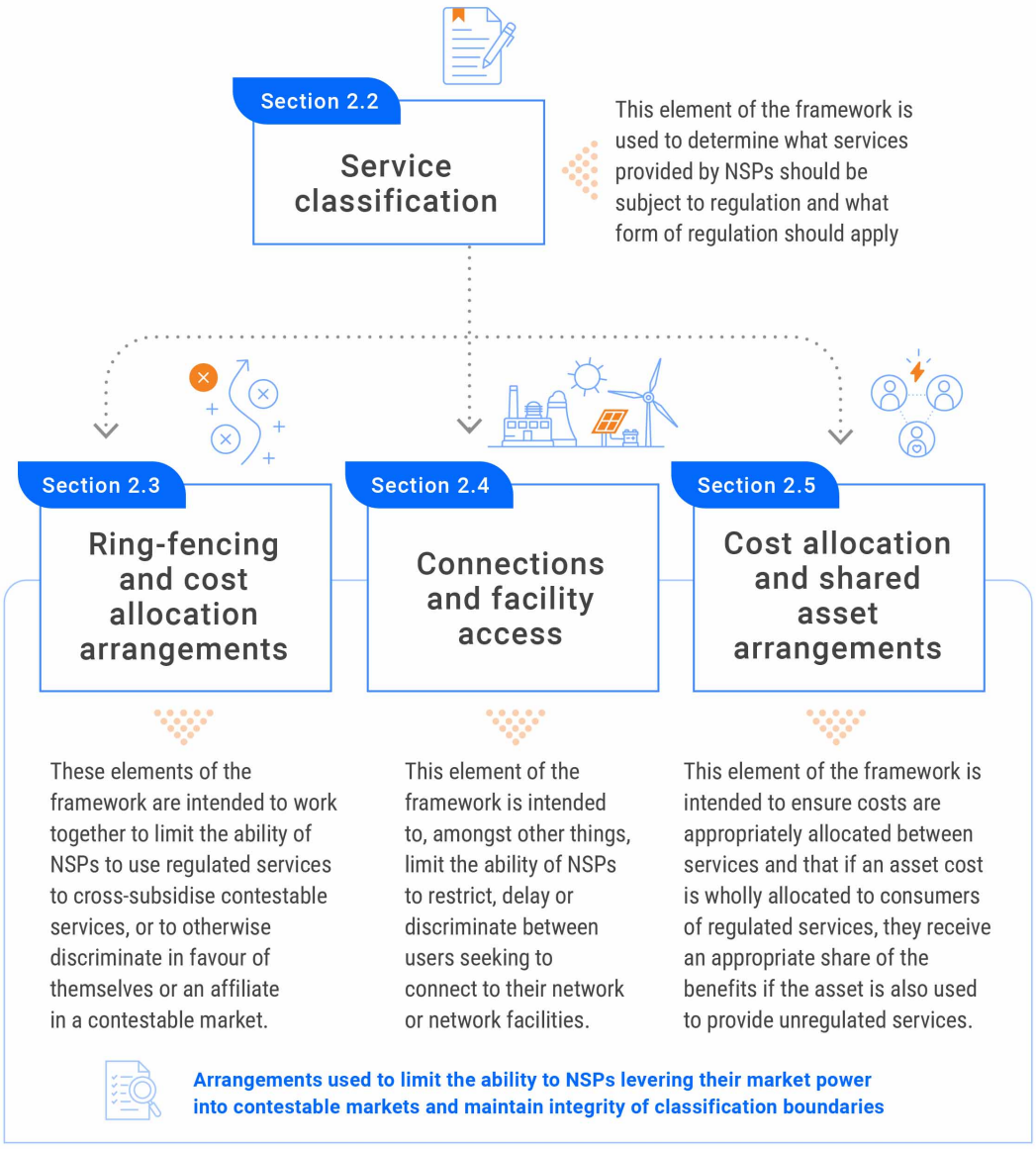
- connections and facility access[24] arrangements
- shared asset arrangements.[25]

Importantly, these measures are not intended to prohibit NSPs from providing contestable network services and competing for the provision of these services on the basis of genuine competitive advantages. Nor do they prevent an affiliate of an NSP competing to provide contestable services. The measures are instead intended to address the risk that NSPs use their regulated monopoly position to impede competition in contestable markets.

24 The rules do not specifically regulate facility access but they may become subject to regulation through the service classification process. The AER has, for example, recently classified distribution asset rental for EVCI as a negotiated service for the Victorian distribution networks.

25 The shared asset arrangements are also intended to incentivise NSPs to use assets that provide relevant regulated services for unregulated services if that use is efficient and does not materially prejudice provision of regulated services and ensure consumers who have funded those assets are not required to pay for the full cost of the asset.

Figure 2.2: Key elements of the service classification and ring-fencing framework



Source: AEMC

2.2 Services NSPs should provide and the service classification process

We are proposing to consider whether the service classification arrangements are operating as intended, or whether reforms may be required to ensure they remain fit for purpose in the future.

This section provides an overview of:

- how the service classification process currently works (section 2.2.1) and
- the emerging issues or questions relating to this process (section 2.2.2).

It is worth noting in this context that the ENA has proposed a number of specific changes to the distribution service classification provisions in its rule change request, which we intend to consider in parallel through that rule change request (see chapter 4).

2.2.1 How does service classification currently work?

The NER currently provides for different approaches to classifying transmission and distribution services.

Transmission services

At the **transmission** level, the NER currently specifies which services are to be classified as:[26]

- prescribed transmission services, which are subject to direct economic regulation by the AER
- negotiated transmission services, which are subject to the negotiate-arbitrate framework
- non-regulated services, which are unregulated services.

Because these services are specified in the NER, any changes to transmission services that necessitate a change to service classification can only occur through a rule change. In deciding whether to make such a rule, we must consider, amongst other things, the form of regulation factors in the NEL [27](see section 5.2), and any other matters we consider relevant.[28]

Distribution services

At the **distribution** level, the AER is responsible for determining whether to classify any distribution services as direct control or negotiated services, unless the service is otherwise classified in the NER.[29,]

The first step for the AER in classifying a service is considering whether the service is a distribution service. This is currently defined in the NER as follows:

> Distribution service: A service provided by means of, or in connection with, a distribution system.
>
> Distribution system: Each of the following:
>
> (a) a distribution network, together with the connection assets associated with the distribution network, which is connected to another transmission or distribution system
>
> (b) a stand-alone distribution system in a regulated stand alone power system (SAPS).

If the AER is satisfied that a service is a distribution service, then it must decide whether to classify the service as either:

- a direct control service, which is subject to direct economic regulation by the AER
- a negotiated distribution service, which is subject to the negotiate-arbitrate framework.

The AER must have regard to the following matters when making this decision:[30]

- the form of regulation factors in the NEL,[31](see section 5.2) which broadly require the AER to consider:

26 These terms are defined in Chapter 10 of the NER.
27 Section 2F of the NEL.
28 Section 88A of the NEL.
29 Clause 6.2 of the NER. Note that to date this has only been used for stand-alone power systems.
30 Clause 6.21(c) of the NER.
31 See section 2F of the NEL.

- whether the DNSP has market power in the provision of the relevant service[32] and, if so, if there are any constraints on the DNSPs ability to exercise that market power[33]
- if there is adequate information available to users to enable them to negotiate on an informed basis with the DNSP for the provision of the service

- the form of regulation (if any) previously applicable to that service
- the desirability for consistency in the form of regulation within and beyond a jurisdiction
- any other relevant factor.

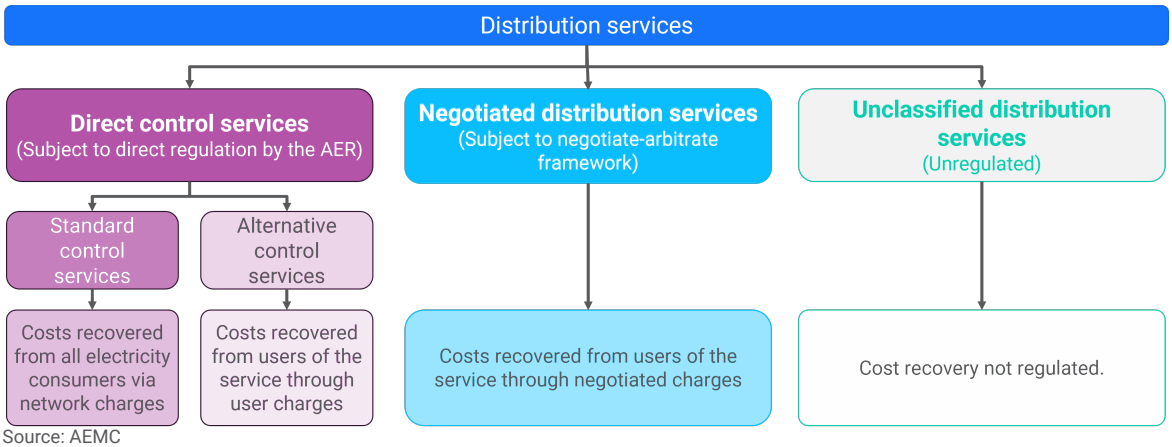
If the AER decides to classify a distribution service as a direct control service, then it must make a further decision on whether to classify the service as either:[34]

- a standard control service, which is generally used for services supplied to most customers (e.g. common distribution services), or
- alternative control service, which is generally used for customer-specific services (e.g. public lighting), including those where there may be the potential for competition.

The AER must consider the extent to which the costs of providing the services are directly attributable to particular users, and the potential for competition to develop, when making this decision. It must also consider the possible effects on administrative costs and the desirability for consistency in approach over time and across jurisdictions.[35]

Services that are considered to meet the definition of distribution service but are not classified by the AER are treated as unregulated distribution services (see Figure 2.3).

Figure 2.3: Distribution service classification



Source: AEMC

The NER requires the AER to set out the approach it proposes to use when classifying services in Distribution Service Classification Guidelines. The AER must also set out its proposed approach to the classification of distribution services for each DNSP in the Framework and Approach paper that it must publish prior to the commencement of the DNSP's regulatory determination process.

32 This could be because of barriers to entry and/or network externalities (i.e. interdependencies) between that service and any other network services, or other services provided by the NSP.

33 Such constraints could include competition from substitute services or substitutes for the supply of electricity, or the countervailing market power held by users or prospective users of the service.

34 Clause 6.2.2(c) of the NER.

35 Clause 6.2.2(c) of the NER.

The AER can depart from this classification in its regulatory determination if it considers there has been a material change in circumstances.[36]

2.2.2 What are the potential issues with service classification?

The energy transition is resulting in a number of changes that may challenge the service classification arrangements in the future. It is, for example:

- supporting the emergence of new energy services and service delivery models and leading to changes to the services that NSPs are expected to provide
- testing the boundaries between those network services that should be subject to economic regulation and those that can be provided on a contestable basis by third party providers.

New energy services and charges to network services are resulting from the transition

Technological change and growth in CER, together with changing consumer preferences and government policies are leading to the emergence of new energy services and delivery models. Retailers, aggregators and other third party providers are increasingly seeking to supply EV charging, community battery and flexibility related services to consumers.

The same factors are also leading to changes in the role that NSPs are expected to play in the NEM and the services they are expected to provide, with:

- TNSPs now expected to play a more active role in procuring system security services to maintain grid stability.
- DNSPs now expected to perform a more active DSO role, managing bi-directional electricity flows and coordinating network assets, CER and flexible loads in real time. This role is expected to continue to evolve over time, with DNSPs expected to provide enabling platforms and services to support CER and competition in downstream markets.

More generally, coordination requirements across the NEM are growing, with efficient system outcomes increasingly dependent on effective and efficient coordination between NSPs, retailers, aggregators and other third parties. However, the current regulatory framework only allows for the regulation of coordination services provided by NSPs, and it doesn't regulate the quality, neutrality or effectiveness of that coordination.

The developments outlined above are changing how network services are conceptualised. Rather than being defined by their physical connection to network assets, services are increasingly understood in terms of the functions they perform (e.g. electricity conveyance, orchestration of distributed resources, optimisation of system performance, provision of digital platforms).

The emergence of new technology and service delivery models is also allowing services that appear to an end-user as a single service, to be decomposed into:[37]

- **the network-facing component of the service,** which is the service the NSP provides to retailers, aggregators and other third party providers that enables the delivery of the service to the customer or market
- **the customer- or market-facing component of the service,** which is the service that retailers, aggregators and other third parties provide to end users or the market.

36 Clauses 6.8.1(b)(2)(i) and 6.12.3 of the NER.

37 A good example of this can be found in CitiPower, Powercor and United Energy's (CPU) hot water switching service, which will be offered to third parties seeking to manage when their customers' hot water systems can heat to manage their wholesale market risk. The network-facing service in this case is CPU's management of hot water services at the direction of a third party, while the customer-facing service is the hot water control service offered by the third party to its customers. In contrast to the traditional controlled hot water system load service offered by DNSPs, this service would be sold by CPU to third parties and not to end users and third parties would be responsible for determining when it is used. See AER, Final decision – AusNet Services, Jemena, CitiPower, Powercor and United Energy distribution determinations 2026-31, Attachment 11, April 2026.

Technological developments—including stand-alone power systems, battery storage, and vehicle-to-home capabilities—are increasing the potential for some consumers to bypass transmission and distribution networks. In certain contexts, this may extend contestability to services that were historically considered to exhibit natural monopoly characteristics.

This is likely to continue evolving as the transition progresses, particularly as the DSO role evolves (see section 2.3.2) and the importance of coordination among NSPs and other market participants increases. It is important that the service classification arrangements are sufficiently flexible to accommodate these changes, including being able to respond more rapidly to changes.

In this regard, it is worth noting that the AER is currently required to make decisions on distribution service classification through the Framework and Approach process over 2 years before the regulatory control period commences. The AER can depart from this decision in its final regulatory determination, however, the service classification decision may be 5-7 years old by the end of the regulatory control period. We are therefore considering whether maintenance of the current approach is in consumers' interests, as a lot can change in this timeframe.

The boundaries between regulated and contestable services are being tested

The energy transition is also beginning to test the boundaries between network services that should be subject to economic regulation and those that can be provided on a contestable basis by third party providers. This is particularly the case at the distribution level for emerging services that operate at the intersection of network and market functions, such as EV charging, community battery and flexibility related services.

As noted, DNSPs are increasingly playing a role in enabling these services. Some DNSPs have also obtained ring-fencing waivers, which have allowed them to provide these services directly as part of an EVCI or community battery trial (see Box 1). These waivers, which the AER has granted under its ring-fencing guideline and the regulatory sandbox framework, have provided DNSPs an indirect means to offer trial services that have not been classified as direct control or negotiated services.[38]

These waivers have been strongly opposed by most retailers and third party providers, who are concerned that DNSP involvement in these markets, even for a time-limited trial, could foreclose competition and have a detrimental effect on consumers.[39]

For example, in the Ausgrid community power network regulatory sandbox process, Origin stated there is already competition in the CER and battery energy storage systems market and that the trial could disrupt these markets and result in higher prices and reduced customer choice.[40]

Similar observations were made by other retailers and third party providers in the AER's ring-fencing class waiver for batteries funded under the Australian Government's Community Batteries for Household Solar Program process and in the CitiPower, Powercor and United Energy (CPU) proposed ring-fencing waiver for an EVCI trial process.[41] Nexa also expressed similar concerns in its rule change request, which is discussed further in chapter 3.

---

38 The AER's distribution ring-fencing guidelines prohibit DNSPs from offering services other than distribution services, unless they have a ring-fencing waiver.

39 AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025, pp. 8-12. AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, p. 14.

40 AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, p. 15.

41 AER, Decision – Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023, p. 14; AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025, pp. 8-1EnergyAustralia, Submission to CPU EVCI ring-fencing waiver application, 13 June 2025, p. 4; Red Energy and Lumo, Submission to CPU EVCI ring-fencing waiver application, 13 June 2025, p. 3; Tesla, Submission to CPU EVCI ring-fencing waiver application, 18 June 2025, p. 1.

Ausgrid and CPU, on the other hand, pointed to the potential efficiencies, emissions reductions and other potential consumer benefits that may flow from their involvement in these markets. For example:

- Ausgrid stated that consumers would benefit from its community power network trial because it would improve local grid resilience to short-term outages, reduce the need for network augmentation, reduce emissions and help address equity issues.[42]
- CPU also pointed to the potential network efficiency and emissions reduction benefits associated with its EVCI trial and stated that it would provide for more equitable access to public EV charging.[43]

The ENA has pointed to similar potential benefits to CPU in its rule change request, which, if implemented, would allow DNSPs to have a permanent role in rolling out kerbside EVCI, which would be classified as a direct control service and to compete with third party EVCI providers. This is discussed further in chapter 4.

Given the diversity of views expressed on this issue, we intend to consider:

- what network services should be subject to economic regulation and what services should be left to the market to provide
- what, if any, additional guidance could be provided on how the boundaries between services should be drawn, particularly for emerging services given the limited guidance currently provided in the NER.

Question 2: What network services should be subject to economic regulation and are changes to the service classification framework required?

1. What, if any, changes do you think should be made to the service classification arrangements (including the timing of when service classification decisions are made) to ensure they remain fit for purpose into the future and sufficiently flexible to accommodate the changes underway?
2. Do you think there are any circumstances in which it would be in the long term interests of consumers for NSPs to provide regulated services in contestable markets? If so, please explain:
   a. what those circumstances are
   b. how this would work in practice
   c. how the framework should limit the ability of networks to leverage their regulated monopoly position to limit competition in contestable markets.
3. Is additional guidance required in the NER on:
   a. how the boundaries between regulated and contestable (unregulated) services should be drawn?
   b. how to accommodate the new DSO role for DNSPs?
4. Are there any other issues with the current service classification arrangements that you think we should consider in this Review?

42 AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, p. 1.

43 CPU, Application for a ringfencing waiver, December 2024, p. 13 and AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025.

5. Are any other changes to the regulatory framework required to support the increasing importance of efficient and effective coordination between NSPs and other market participants?

2.3 Ring-fencing arrangements

Ring-fencing arrangements are intended to limit the ability of NSPs to use regulated services to cross-subsidise their activities in contestable markets, and/or discriminate in favour of themselves (or an affiliate) in a contestable market. The emergence of new technologies, services and service delivery models is starting to challenge the current arrangements, with some stakeholders questioning their adequacy.

The remainder of this section provides an overview of:

- how the ring-fencing arrangements currently work (section 2.3.1) and
- the emerging issues or questions relating to these arrangements (section 2.3.2).

As noted in chapter 1, Nexa has proposed a number of specific changes to the distribution ring-fencing obligations and governance arrangements in its rule change request, which we intend to consider as part of that rule change request (see chapter 3).

2.3.1 How does ring-fencing currently work?

The ring-fencing arrangements applying to NSPs are currently governed by a combination of:

- Rules in Chapters 6 and 6A of the NER, which require:[44]
  - The AER to develop ring-fencing guidelines for the separation of relevant regulated network services[45] from the provision of other services. The rules set out a non-exhaustive list of the types of ring-fencing the guidelines may require and also allow the AER to add to, or waive, an NSP's ring-fencing obligations. In contrast to other areas of the rules, these provisions do not include any guiding principles that the AER must have regard to when developing these guidelines.
  - NSPs to comply with the AER's ring-fencing guidelines. This requirement is classified as a tier 1 civil penalty provision, which reinforces the importance of ring-fencing.
- Rules in Chapter 8 of the NER, which allow the AER to grant sandboxing trial waivers from ring-fencing obligations for a specified period to allow innovative trial projects to proceed.[46]
- AER transmission and distribution ring-fencing guidelines which require NSPs to:[47]
  - comply with a range of legal, accounting and functional ring-fencing obligations in the guidelines unless they obtain a waiver from the AER
  - report annually to the AER on compliance with these obligations and to notify the AER of any compliance breaches.

NSPs must also comply with the restrictive trade practices provisions in Part IV of the *Competition and Consumer Act 2010* (CCA). This includes the prohibition on corporations that have a substantial degree of market power from misusing that power.

44 Clauses 6.17 and 6A.21 of the NER.

45 In the case of DNSPs, relevant regulated network services are direct control services, while for the TNSPs relevant regulated network services are prescribed transmission and negotiated transmission services.

46 NER, Chapter 8 Part K. These trial waivers can be grated for up to five years, with the possibility of a one-off extension of up to one year.

47 AER, Ring-fencing Guideline Electricity Transmission, February 2025 and AER, Ring-fencing Guideline Electricity Distribution, February 2025.

The AER's ring-fencing guidelines impose a number of requirements on NSPs

The AER's ring-fencing guidelines require NSPs to comply with the following ring-fencing obligations unless they obtain a waiver:

- **Legal and accounting separation requirements**, which are intended to work together with the cost allocation arrangements to limit the ability of NSPs to use revenue earned from the provision of regulated services to cross-subsidise their activities in contestable markets. That is, by providing for the legal and accounting separation of network services from other energy services.
- **Functional separation requirements,** which are intended to limit the ability of NSPs to engage in discriminatory behaviour in contestable markets, by providing for the functional separation of relevant regulated network services from contestable services. These requirements include a no-discrimination obligation, restrictions on information sharing, restrictions on staff and office sharing, branding and cross-promotion requirements.[48]

NSPs are also required to report on their compliance to the AER.

The AER's ring-fencing guidelines allow for individual or class waivers to be obtained from the legal, staff, office, branding and cross promotion requirements, but not from the accounting separation, no discrimination obligation or the information sharing restrictions. In deciding whether to grant a waiver, the guideline states that the AER must have regard to the NEO, the potential for cross-subsidisation and discrimination and whether the benefit to consumers of NSPs complying with the obligation would outweigh the cost to the NSP of compliance. The AER may also have regard to any other matters it considers relevant.[49]

While NSPs are subject to these ring-fencing requirements, it is worth noting that they can still:

- compete directly, or via an affiliate, with third party providers to supply unregulated or unclassified network services
- compete directly to supply other electricity services if they obtain a waiver from the AER, or can do so via an affiliate.

If NSPs decide to compete to provide these contestable services they must (subject to any waivers) comply with the functional separation requirements.

As noted in Chapter 1, the AER has decided to undertake a review of its distribution ring-fencing guidelines in parallel to this Review. The AER's review will focus on whether the current guideline is fit-for-purpose or requires updates, particularly as DNSPs take on new roles in a changing energy system. The AER proposes to consider functional separation obligations; DNSP involvement in negotiated, unregulated and emerging services; ring-fencing waiver assessment and conditions; reporting obligations; and whether obligations are clear, enforceable and proportionate.

Our Review is considering whether more fundamental changes to the ring-fencing arrangements may be needed to address the emerging issues outlined below.

2.3.2 What are the emerging issues or questions?

Questions have been raised about the adequacy of the current ring-fencing obligations for emerging

48 Note that the office separation, branding and cross-promotion, office and staff register requirements only apply to DNSPs.

49 AER, Ring-fencing Guideline Electricity Transmission, February 2025, clause 5.3 and AER, Ring-fencing Guideline Electricity Distribution, February 2025, clause 5.3.

markets

Questions have been raised about the adequacy of the current ring-fencing obligations and their ability to effectively prevent NSPs from leveraging their monopoly position into contestable markets in recent AER ring-fencing waiver processes. These questions have largely centred on the adequacy of the existing non-discrimination and information access and disclosure obligations.

For example:

- In the CPU EVCI trial waiver process, stakeholders noted the potential for CPU to favour itself when allocating or approving access to sites. They also noted CPU may not charge itself the same access fees that it charges third party providers and could withhold or selectively share information on suitable sites to disadvantage competitors.[50]
- In the Ausgrid community power network trial regulatory sandbox waiver process, concerns were also raised about the potential for Ausgrid's access to confidential information to accord it a competitive advantage over other third party providers.[51]

The AER responded to these concerns by imposing additional conditions on the ring-fencing waivers. For example:

- CPU's waiver includes additional non-discrimination conditions, which require CPU to:[52]
  - charge itself an annual access fee equivalent to the median charge payable by third party EVCI operators
  - publish a facilities access agreement and negotiation procedure on its website, report to the AER on what it charges third party providers and publish information on the expected timeframe for energising third party EV chargers, the reasons for rejecting applications or elongated negotiations.
- Ausgrid's waiver includes additional non-discrimination and access conditions, which require Ausgrid to specify a third special energy plan location that the commercial market will be able to use to install and coordinate Distributed Energy Resources (DER). Ausgrid is also required to take all reasonable steps to ensure there is a level playing field at this location, including by offering connections and access on the same or similar terms as those at its trial sites.[53]

As these stakeholder submissions and AER responses highlight, the emergence of newer services and technologies has raised complex questions about DNSP participation, cost allocation, reporting, consumer benefits and competition risks. They also underscore how difficult it can be to regulate behaviour through ring-fencing obligations. This is particularly the case when NSPs have a strong financial incentive to engage in the behaviour and when it is difficult to detect.

This could become even more challenging in the context of DSO. DNSPs will have greater access to system-wide operational data and commercially sensitive information that third party providers will also require access to. The CER taskforce has described the future DSO role to be played by DNSPs as including:[54]

- actively managing network assets, CER and flexible loads to achieve safe, reliable and efficient operation of the distribution system in a two-way power flow environment

50 AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025, pp. 18-19.

51 AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, p. 1. CPU, Application for a ringfencing waiver, December 2024, p. 15.

52 AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025, pp. 22-24.

53 AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, pp. 23-24.

54 CER Taskforce, Redefining roles and responsibilities for power system and market operations in a high CER future, December 2025, pp. 28-29.

- employing a spectrum of tools, mechanisms and market interfaces to value, incentivise, procure and coordinate energy and flexibility services from CER
- actively coordinating between system operators and network operators to enable operational visibility and data exchange required for operations, and for system security and reliability.

The CER Taskforce also pointed to the potential risks of DNSPs performing this role if they also own and operate CER or DER, including DNSPs:[55]

- favouring their own CER or DER when managing constraints in real time, even if it is more costly
- using resources underwritten by consumers to compete with and have unfair advantages against, consumers' CER in contestable energy and services markets
- providing their own resources lower or zero network tariffs.

The Taskforce therefore noted the potential need to strengthen the current ring-fencing arrangements and to make clear the obligations that DSOs will have when it comes to owning and operating CER/DER and enabling third parties, such as retailers and aggregators to operate CER assets to achieve the most efficient whole of system outcomes.[56]

Given the issues that have been raised about the current ring-fencing arrangements and the potential for them to be challenged even further in the context of DSO, we intend to consider:

- how effective these arrangements have been in promoting the long term interests of electricity consumers to date, and
- if any changes may be required to ensure they remain fit for purpose into the future.

The use of ring-fencing waivers is being questioned by some stakeholders

The availability of ring-fencing waivers is an important source of flexibility in the regulatory framework. This is because rigid separation may not always be proportionate or efficient. There is, nevertheless, a risk associated with ring-fencing waivers, as a number of stakeholders have observed in recent AER ring-fencing and regulatory sandbox waiver decisions (see Box 1).

Retailers and third party providers, for instance, have been opposed to waivers that allow DNSPs to participate in contestable markets, even in a trial capacity, because they are concerned it could discourage private investment, foreclose competition and harm consumers in the longer term.[57] Nexa expressed similar concerns in its rule change request and suggested waivers only be available where there is a market failure and DNSP involvement would deliver measurable consumer benefits (see chapter 3).

DNSPs, on the other hand, see a legitimate role for waivers in enabling them to trial new initiatives that deliver network efficiencies, innovation and other potential benefits to consumers.[58]

Box 1: Recent ring-fencing waiver and regulatory sandbox decisions

The AER has recently granted a number of ring-fencing and regulatory sandbox waivers, which have allowed DNSPs to participate in contestable markets in a trial capacity, subject to a number

55 CER Taskforce, Redefining roles and responsibilities for power system and market operations in a high CER future, December 2025, p. 35.

56 CER Taskforce, Redefining roles and responsibilities for power system and market operations in a high CER future, December 2025, p. 36.

57 AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025, pp. 8-12. AER, Trial waiver decision – Ausgrid Community Power Network, December 2025, p. 14. AER, Decision – Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023, p. 14.

58 Ausgrid, Trial waiver application, May 2025. CPU, Application for a ringfencing waiver, December 2024.

of conditions. These waivers include:

- the ring-fencing class waiver for the Australian Government's Community Batteries for Household Solar Program.
- the ring-fencing waiver for the CPU EVCI trial
- the regulatory sandbox waiver for the Ausgrid community power network trial

Further detail on these trials is provided below.

Australian Government's Community Batteries for Household Solar Program

In December 2022, the AER decided to grant a ring-fencing class waiver that provides DNSPs with an exemption from a number of the ring-fencing obligations if they are involved in the Australian Government's Community Batteries for Household Solar Program. The waiver applies from February 2023 to 30 June 2041.

The class waiver enables DNSPs to lease excess battery capacity to third parties for batteries funded under the Commonwealth Government's Community Batteries for Household Solar Program.

CPU EVCI trial

In October 2025, the AER used its ring-fencing powers to grant CPU a waiver from certain ring-fencing obligations so that CPU could conduct a time-limited EVCI trial.

The trial, which is being funded by CPU, involves the deployment of 100 kerbside EV chargers across CPU's distribution areas. The trial is intended to test managing local network impacts through EV charger demand price response and charger modulation until 2031.

CPU sought the ring-fencing waiver so that it could provide EVCI services and to use staff from its regulated business. In its application, CPU noted that while it considered the provision of EVCI services "may be 'distribution services" for the purposes of the NER, it was applying for a waiver from the legal separation requirements to "put any question of…compliance with clause 3.1 of the Ringfencing Guideline beyond doubt".

Ausgrid community power network trial

In December 2025, the AER used its regulatory sandbox powers to grant Ausgrid a trial waiver from certain ring-fencing obligations so that Ausgrid could conduct a community power network trial.

The trial involves Ausgrid owning and installing local battery storage and acting as a provider of last resort for solar procurement and is intended to test new ways to coordinate community scale batteries and solar installations for a 5 year period. Ausgrid noted it intended to play an orchestration role in managing the battery assets, through minimising peak demand and reducing minimum demand issues, working to reduce the amount of network augmentation required to meet future network needs. It also noted it would be able to provide services to the market, such as selling electricity to the wholesale market and provide ancillary support services.

Ausgrid sought the waiver from the ring-fencing obligations because battery trading and solar procurement are not distribution services. It also sought the waiver to overcome some of the functional separation ring-fencing requirements.

Note: AER, Decision – Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023. AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025. AER, Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, October 2025. CPU, Application for a ringfencing waiver, December 2024, p. 2. AER, Trial waiver decision – Ausgrid Community Power Network, December 2025.

We intend to consider:

- how effective the ring-fencing waiver arrangements have been and if they are promoting the long term interests of electricity consumers, and
- if any changes may be required to ensure they remain fit for purpose in the future.

We also intend to consider whether DNSPs have been resorting to the waiver process due to uncertainty about whether some services are distribution network services (see Box 1).

Question 3: Are changes required to the ring-fencing arrangements?

1. How effective do you think the ring-fencing obligations have been to date, in terms of preventing the cross-subsidisation of contestable activities and discriminatory behaviour? What changes, if any, are required to ensure they remain fit-for-purpose in the future?
2. How effective do you think ring-fencing waivers have been to date in promoting the long-term interests of consumers? What, if any, changes do you think should be made to ensure they remain fit for purpose into the future?
3. Are there any other problems with the ring-fencing arrangements or ring-fencing waivers that you think we should consider in this Review?
4. Do you think that there would be any change in the number of applications for ring-fencing waivers if there was more clarity around what services are distribution services and what services are not distribution services?

2.4 Connection and facility access arrangements

The ability to access network connections, or other network facilities, on fair, reasonable and non-discriminatory terms can be critical for generators, retailers, aggregators and other energy service providers seeking to enter and effectively compete in contestable markets. The connections and facility access element of the service classification and ring-fencing framework can play an important role in fostering competition in contestable markets and, in so doing, promote the long-term interests of electricity consumers.

The remainder of this section provides an overview of:

- how the connections and facility access arrangements currently work (section 2.4.1) and
- the emerging issues or questions relating to these arrangements (section 2.4.2).

2.4.1 How does connection and facility access currently work?

Access to connections

The way in which connections are regulated under the NER differs between transmission and distribution:

- At the transmission level, the connections that can be undertaken on a contestable basis are not regulated. The connections that can only be provided by the TNSP have been classified as negotiated transmission services, which are subject to the connection arrangements and negotiate-arbitrate framework set out in Chapter 5 of the NER.
- At the distribution level, all connections carried out by DNSPs are subject to some form of regulation. For example:
  - Basic and standard connections by retail customers and embedded generators are subject to AER approved model standing offers under Chapter 5A of the NER, while non-

basic/standard connections are subject to the negotiate-arbitrate framework in Chapter 5A of the NER.

- Connections by large registered participants to distribution networks are subject to the connection arrangements in Chapter 5 of the NER and the negotiate-arbitrate framework in Chapters 5 and 6 of the NER.

At a high level, each of these provisions is intended to prevent NSPs from hindering access to their networks through the connection process and to provide access on fair, reasonable and non-discriminatory terms. They do this by specifying in the NER:[59]

- the rights connection applicants have to connect and the obligations NSPs have to facilitate connections
- the process that connection applicants and NSPs must follow in relation to connection enquiries, connection applications, offers and connection contracts
- how connection charges and other terms and conditions are to be determined[60]
- in the case of negotiated connections:
  - the negotiating principles, information disclosure requirements, obligation to negotiate in good faith and other measures to support effective commercial negotiations between the connection applicant and the NSP
  - the dispute resolution mechanism that is to apply if the connection applicant and the NSP can't agree on the price or other terms and conditions of access.[61]

NSPs are also required to comply with the ring-fencing obligations when providing connection services. This includes the obligation not to discriminate (either directly or indirectly) when providing services.

Access to other network facilities

NSPs may provide access to other network facilities (e.g. DNSP poles) in addition to physical connections and supply services through facility access agreements. The way access to these facilities is obtained depends on whether the service is classified. For example, if the service is:

- Classified as a negotiated distribution service, then the negotiate-arbitrate framework in Chapter 6 of NER would apply. A prospective user could therefore seek to negotiate access with a DNSP and if negotiations fail the dispute could be arbitrated by the AER.
- Not classified, then a potential user would need to ask the NSP if it is willing to provide access.[62] If the NSP is willing to provide access, the prospective user would need to negotiate directly with the NSP, without any of the protections afforded by the negotiate-arbitrate framework in the NER.

2.4.2 What are the emerging connection and facility access issues?

The energy transition is driving strong demand for new connections across both transmission and distribution networks. This demand is primarily being driven by CER, renewable generation, grid-scale storage, data centres and EVCI.

59 Chapter 5 Part B and Chapter 5A Parts C-G of the NER.

60 For example, Chapter 5A of the NER requires the AER to develop connection charge guidelines for retail customer and embedded generation connections. Schedule 5.11 states that the price for negotiated transmission services should be based on the costs incurred in providing that service and clause 6.7.1 of the NER similarly stats that the price for a negotiated distribution service should be based on the costs incurred.

61 The dispute resolution mechanisms are in Part L of Chapter 6 for negotiated distribution services, Part G of Chapter 5A for retail customer and embedded generator connections and Part B of Chapter 8 for other connections and access disputes.

62 An NSP would have no obligation to offer a service that is not classified.

This growth in demand is reportedly placing pressure on existing connection arrangements, with stakeholders raising concerns about the timeliness, cost and complexity of the connection process, as well as inconsistencies between transmission and distribution arrangements. From a service classification and ring-fencing framework perspective, concerns have also been raised about:

1. the potential for NSPs' connections and/or facility access processes to act as a barrier to entry to contestable markets
2. the effectiveness of the negotiate-arbitrate framework in constraining the behaviour of NSPs.

Connection and facility access processes can act as a barrier to entry

Submissions to recent AER ring-fencing waiver and regulatory decisions have highlighted the potential for DNSP connection and facility access processes to act as barriers to kerbside EV charging. For example, in the CPU kerbside EVCI ring-fencing waiver process, several stakeholders stated that procedural and cost barriers in DNSP processes were acting as a 'major barrier to kerbside charger rollout' in Victoria. These stakeholders expressed particular concerns about the barriers posed by:[63]

- Facility access processes, with specific concerns raised about access to DNSPs' poles, primarily due to what stakeholders consider to be high fees and restrictive terms in DNSP facility access agreements. Concerns were also raised about the lack of standardised facility access agreements and access fees.
- Connection processes, with specific concerns raised about the need to negotiate bespoke EV connection agreements with DNSPs, delays in connections, EV connection charges and distribution tariffs, the lack of transparent information on optimal sites and limited regulatory oversight of these processes. Concerns were also raised about the lack of standardised connection arrangement and connection charges for EVCI.
- The potential for DNSPs to provide themselves (or an affiliate) preferential treatment in terms of EVCI site selection, connection and facility access processes and fees, technical, commercial or operational requirements.

Similar concerns about facility access were raised in the context of the AER's 2026-2031 Victorian DNSP regulatory decision process.[64] The AER decided to classify EVCI distribution asset rental as a negotiated distribution service in response to those concerns.[65] It also decided in the CPU ring-fencing waiver process to require CPU to charge itself an annual pole access fee equivalent to the median fee charged to third party EVCI providers.[66]

Many of the barriers referred to in the AER's processes were also identified in the Department of Climate Change, Energy, the Environment and Water's (DCCEEW) Facilitating EVCI under Commonwealth Grants rule change request, with DCCEEW stating that:[67]

> Business-as-usual site identification processes, connection processes (timelines and costs) and DNSP infrastructure leasing arrangements are hampering Australia's ability to make

63 AER, Reasons for decision: Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor, and United Energy, October 2025, pp. 3 and 9. AEC, Submission to AER, 12 June 2025. Nexa, Submission to AER, 12 June 2025.

64 AER, Draft decision: AusNet Services, Jemena, CitiPower, Powercor and United Energy electricity distribution determinations 1 July 2026-30 June 2031, April 2026, Attachment 11, p. 3.

65 AER, Draft decision: AusNet Services, Jemena, CitiPower, Powercor and United Energy electricity distribution determinations 1 July 2026-30 June 2031, April 2026, Attachment 11, p. 3.

66 AER, Reasons for decision: Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor, and United Energy, October 2025, p. 22.

67 DCCEEW, Facilitating EVCI under Commonwealth Grants rule change request, May 2026, p. 7.

fast gains in the deployment of EVCI and break the chicken and egg cycle.

DCCEEW is proposing to try and address some of these barriers through the design of its grants program and the rule change request (see section 4.1.1).

While the concerns outlined above centre on EVCI, NSP connections and/or facility access processes may also act as a barrier to entry into a range of other existing and emerging contestable markets, including generation, retail and aggregation markets. We are therefore considering this issue more generally.

Effectiveness of the negotiate-arbitrate framework for connections and other network facilities

Some connection services provided by TNSPs (i.e. non-contestable connection services) and DNSPs (i.e. non-basic or non-standard connection services) must be negotiated directly with the NSP. The AER has also recently classified EVCI distribution asset rental as a negotiated distribution service for the Victorian DNSPs.

While negotiations of these arrangements are subject to the safeguards provided by the negotiate-arbitrate framework, some stakeholders have told us during our early consultation that it is challenging to negotiate with NSPs. They have also questioned the effectiveness of the negotiate-arbitrate framework in constraining the exercise of market power by NSPs.

The challenges of negotiating with NSPs are not new. Rather, they have been raised in prior AEMC processes, including the 2017 Transmission Frameworks Review and Transmission Connections and Planning Arrangements rule change.[68] While steps were taken in that rule change process to address these concerns for transmission connections, it appears from early stakeholder feedback that this is an ongoing issue.

One of the main safeguards against the exercise of market power under the negotiate-arbitrate framework is the dispute resolution mechanism. However, this mechanism has rarely been used in practice. The reasons for this are unclear. For example, it could be due to the costs and time involved in resolving disputes, concerns about its impact on the applicant's ongoing relationship with the NSP, or because there have not been significant concerns about NSPs' behaviour.

The fact that the dispute resolution mechanism has rarely been triggered is not necessarily a problem. This is because the threat of triggering this mechanism may be enough in some cases to counter any attempt by an NSP to exercise its market power. However, if NSPs do not think the threat of triggering this mechanism is credible, then the constraint it is intended to pose on their ability to exercise market power may not be working as effectively as it should. This may act as a barrier to entry for third parties that have to negotiate connections or facility access, or otherwise affect the competitiveness of those that are able to negotiate access.

We think there is merit in considering whether this element of the negotiate-arbitrate framework and other elements are working as intended, or if changes may be required.

Question 4: Are changes required to the connection and/or facility access arrangements?

1. Do you think the current connection and/or facility access arrangements are acting as a barrier to entry into contestable markets? If so, how?

68 AEMC, Rule Determination: National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017, 23 May 2017.

2. Do you think changes are needed to the regulatory framework for negotiating connections and/or facility access arrangements? If so, what changes are required?
3. Are there any other service regulation related issues with the connection and/or facility access arrangements that you think we should consider in the review?

2.5 Treatment of multi-service assets

NSPs may use individual assets to provide multiple services (i.e. regulated, negotiated and/or unregulated services). The way in which the costs of these assets are allocated between services and recovered from customers is currently determined through the cost allocation and shared asset arrangements.

The remainder of this section provides an overview of:

- how the cost allocation and shared asset arrangements currently work (section 2.5.1) and
- the emerging issues or questions relating to these arrangements (section 2.5.2).

2.5.1 How does the framework currently treat multi-service assets?

If the expected future use of an asset is known at the time it is installed then this will be reflected in the allocation of the asset's cost between regulated, negotiated and/or unregulated services under the current cost allocation and shared asset arrangements.[69]

However, if the actual use of the asset differs from what was expected when it was installed, then this will not be accounted for through cost allocation. This is because allocation decisions made when assets are installed are generally not revisited, even when there has been a material change in an asset's use.[70]

The shared asset arrangements were implemented in 2012 to partially overcome this limitation and to balance the following objectives:[71]

- incentivise NSPs to use assets that provide relevant regulated services (DNSP standard control services and TNSP prescribed transmission services) for unregulated services, if that use is efficient and does not materially prejudice provision of regulated services, and
- ensure that consumers who have funded those assets through payments for the relevant regulated services, are not required to pay for the full cost of the asset.

These objectives are reflected in the NER, with the shared asset provisions allowing the AER to reduce an NSP's revenue requirement for relevant regulated services when an asset originally allocated to regulated services is later used to provide unregulated services. Specifically, the NER allow the AER to reduce the NSP's revenue requirement by an amount it considers reasonable to reflect that part of an asset cost recovered through unregulated services.[72] The AER must have regard to both the shared asset principles in the NER and the shared asset guidelines in deciding whether to do so.[73]

69 That is, with only that portion of the costs of the asset used to provide regulated services allocated to those services.

70 It is worth noting that this is not a requirement of the NER, but appears to have emerged as common practice. See AER, Shared Asset Guidelines, June 2025, p. 3.

71 AEMC, Rule Determination: National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012 and National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012, pp. 191, 195 and 205.

72 Clauses 6A.5.5(a) and 6.4.4(a) of the NER.

73 Clauses 6A.5.5(b) and 6.4.4(b) of the NER.

The shared asset arrangements are not intended to act as a profit sharing mechanism. Rather, they are intended only to provide for the portion of the asset cost recovered through unregulated services, to be deducted from what consumers of the relevant regulated services are required to pay. The Commission considered a broader sharing arrangement when it implemented these arrangements in 2012, however, it concluded that doing so would amount to regulating unregulated services, which it noted did not appear to be permitted under the NEL and NER.[74]

The AER's shared asset guidelines currently provide for 10 per cent of the unregulated revenue expected to be earned by an NSP from the use of shared assets in a year to be deducted from the NSP's annual revenue requirement in that year, subject to the following conditions:

- the asset costs have been wholly allocated to the relevant regulated services[75]
- the unregulated revenue must exceed 1 per cent of the NSP's expected annual revenue from the provision of the relevant regulated services.[76]

The AER is currently reviewing this guideline. The AER's review will focus on whether any improvements can be made to the current guidelines, including to help identify where an asset is 'shared', the 1 per cent materiality threshold and the 10 per cent sharing ratio.

Our Review is considering whether more fundamental changes to the cost allocation and shared asset arrangements in the NER are needed to address the emerging issues outlined below.

2.5.2 What are the emerging issues relating to multi-service assets?

The cost allocation and shared asset arrangements were developed at a time when asset use was more clearly defined and static in nature, with assets primarily used to provide regulated services and occasionally used to generate additional revenue from relatively passive activities (e.g. pole access). In this context, the static approach to cost allocation, supplemented by the shared asset arrangements, reflected a relatively pragmatic approach.

However, the sustainability of this approach is increasingly challenged by the emergence of more complex multi-service assets and other gaps in current arrangements.

Complexities posed by the emerging multi-service assets

New multi-service assets can be used to provide a range of services simultaneously. A community battery can, for example, simultaneously provide network support,[77] wholesale market[78] and customer services[79] and generate relatively dynamic value streams from each of these services. This can also change over time.

The AER's ring-fencing class waiver decision for the Australian Government's Community Batteries for Household Solar Program provides some insight into the complexities posed by these types of assets.[80] In that decision, the AER had to determine how the costs and benefits associated with the batteries should be allocated between regulated and other services and how to minimise the risk of cross-subsidisation, which was subject to a lot of debate from stakeholders. The AER decided in that case to require DNSPs to demonstrate that the proportion of the asset cost to be

74 AEMC, Rule Determination: National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012 and National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012, pp. 191-192.

75 AER, Shared Asset Guidelines, June 2025, p. 6.

76 If the unregulated revenue falls below this threshold, no sharing is required.

77 For example, peak demand reduction, minimum demand smoothing and voltage management services.

78 For example, market generation and ancillary services.

79 For example, virtual storage services and virtual sharing services with peer-to-peer trading of locally generated electricity within a community.

80 AER, Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023.

recovered from regulated services would not exceed the proportion of the benefit to customers of regulated services.[81]

While the AER was able to develop a solution that worked in the context of this government funded program, we think there is merit in considering whether the cost allocation and/or shared asset arrangements should be amended to provide more guidance on how these types of assets should be treated. This is because the current arrangements do not appear well suited to deal with assets that exhibit more complex and dynamic patterns of asset use and revenue generation, or the risks of cross-subsidisation that they pose to consumers of regulated services and competition in contestable markets.

There are other potential gaps in the arrangements

We have identified two other potential gaps in the shared asset arrangements.

The first potential gap arises because these arrangements currently only apply where the cost of an asset has been wholly allocated to the relevant regulated services. This means that if an asset's cost was originally allocated between the relevant regulated and unregulated services, but the allocation to unregulated services understates the asset's use, the shared asset arrangements cannot remedy this allocation. This could result in customers of the relevant regulated service paying more than they should for the use of the asset and could also lead to some cross-subsidisation of the unregulated activities.[82]

The second potential gap arises because the shared asset provisions in the NER currently apply only when an asset is used to provide regulated services and is later used to provide unregulated services, but not when the asset is later used to provide negotiated services.[83] This may be appropriate if there is a reallocation of asset costs once the service is classified as a negotiated service. However, if that reallocation doesn't occur, then it may mean that consumers of the regulated service are paying more than they should for the use of the shared asset. It may also mean that similar services are treated very differently under the shared asset arrangements, depending on whether they are classified as a negotiated service or are unregulated.[84]

Question 5: Are changes required to the cost allocation and/or shared asset arrangements?

1. Do you think that changes should be made to the cost allocation and/or shared asset arrangements? If so, what changes are required?
2. How do you think the costs and benefits associated with assets, such as community batteries, should be accounted for when making cost allocation decisions?
3. Do you think that the allocation of costs for shared assets should be revisited over time? Please explain your answer.
4. Do you think that the current approach to cost allocation and shared asset arrangements, if maintained, should extend to negotiated services?

81 AER, Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023, p. 13.

82 Note that the AER's Shared Asset Guideline doesn't appear to apply where an asset was wholly allocated to standard control services, so the sharing arrangements would not apply in this scenario.

83 Clause 6A.5.5(a) and 6.4.4(a) of the NER.

84 For example, asset rental revenue earned from hosting telecommunications infrastructure, which is usually treated as an unregulated service, would be subject to the sharing arrangements. However, the equivalent rental for EVCI in Victoria, which is now classified as a negotiated service, would not.

3 Nexa's clarifying distribution ring-fencing in emerging energy markets rule change request

Nexa has submitted a rule change request, which seeks to strengthen the distribution ring-fencing arrangements to address what it describes as "existing deficiencies and emerging competitive challenges within contestable energy service markets".[85]. It proposes changes to the ring-fencing provisions and associated governance arrangements in Chapter 6 of the NER.

This chapter provides further detail on Nexa's rule change request and seeks stakeholder feedback on:

- the issues identified in the rule change request (section 3.1)
- the proposed solution and any potential alternative solutions (section 3.2).
- the costs and benefits of the proposed solution and how it would promote the NEO (section 3.3).

This chapter should be read in conjunction with Nexa's rule change request, which can be found on our website here.

As noted in chapter 1, the AER is currently carrying out a review of the distribution ring-fencing guidelines. We understand that as part of that review, the AER intends to consider a number of the issues raised in Nexa's rule change request. We will consider all issues raised in the Nexa rule change request, including if any gaps remain after any AER guideline updates.

3.1 Nexa considers that the current DNSP ring-fencing arrangements need to be strengthened

Nexa has expressed concerns about the increasing involvement of DNSPs in contestable markets and the perceived weakening of DNSP ring-fencing arrangements in its rule change request:[86]

> Since the rise in the take up of solar rooftop in Australia by consumers, the consumer energy market has been contested by incumbent networks. As a result, the protections delivered by the….AER Ring-fencing Guideline…have been progressively weakened - most visibly through the expansion and normalisation of waivers that permit DNSP participation in contestable markets without sufficiently robust conditions, monitoring, or transparency. This creates material risks for competitive neutrality and consumer outcomes at precisely the time these markets are becoming central to the energy transition.

Nexa expressed particular concerns with what it described as an "emerging regulatory failure", which it considered was arising as a result of a series of waivers, trials and incremental relaxations of the ring-fencing arrangements. Nexa considers that this has led to the dismantling of the "safeguards intended to preserve competitive neutrality".[87]

Nexa expressed the view that the AER's current approach to assessing ring-fencing waivers does not adequately consider the longer term market impacts on competition or consumers, and, as a result, DNSPs are increasingly participating in emerging markets, such as EV charging, DER

85 Nexa, Rule change request, 2 March 2026, p. 1.
86 Nexa, Rule change request, 2 March 2026, p. 1.
87 Nexa, Rule change request, 2 March 2026, p. 6.

aggregation and community battery markets.[88] Nexa is concerned that if this trend continues and DNSPs can continue to participate in contestable markets, it will:[89]

- undermine competition by discouraging entry and investment by potential third party providers in these markets
- harm consumers because the benefits of competition, such as more efficient prices, greater consumer choice and product/service innovation would not be realised.

In Nexa's view, such an outcome would be contrary to the consumer outcomes the NEO is intended to protect.[90]

Nexa identified what it considers to be a number of other deficiencies in the existing ring-fencing arrangements in addition to these more fundamental concerns. These are set out in Table 3.1.

Table 3.1: Other potential issues identified by Nexa

Area of ring-fencing	Potential issues identified by Nexa
Affiliate dealings and data access	Nexa stated that information and process asymmetries (including from earlier access to information and priority in queuing) can confer an unfair advantage on a DNSP's affiliate, but can be hard to detect, contest or remedy. According to Nexa, this is not effectively dealt with in the current distribution ring-fencing guidelines, but is becoming increasingly important in emerging markets.
Branding and cross-promotion	Nexa noted that use of shared branding or similar logos across DNSPs and their affiliates can confuse and mislead consumers and discourage them from exploring competitive alternatives. Nexa considered that the current obligations on DNSPs in relation to branding and cross- promotion are not sufficient.
Financial ring-fencing	Nexa contended that the owners of distribution networks could "expose consumer-funded revenues to commercial ventures with higher risk profiles" because they "know that regulators will intervene to keep essential services running" and that "consumers will absorb losses" if a problem arises. According to Nexa, this can result in a DNSP's affiliate not competing on equal financial terms to third party providers in contestable markets. Nexa also noted that stronger financial resilience measures were required to "protect consumers and maintain confidence in essential services". Nexa stated that this source of competitive advantage is not currently dealt with in the AER's distribution ring-fencing guidelines. However, we understand that this is one of the purposes of the legal and accounting separation elements of the ring-fencing obligations.
Reporting, complaints and enforcement transparency	Nexa considered that there is insufficient transparency around the AER's compliance monitoring and enforcement activities relating to

88 Nexa, Rule change request, 2 March 2026, p. 24.
89 Nexa, Rule change request, 2 March 2026, p. 6.
90 Nexa, Rule change request, 2 March 2026, pp. 3, 7 and 11.

Area of ring-fencing	Potential issues identified by Nexa
	ring fencing, which could undermine investment confidence in contestable markets. It suggests that ring-fencing is most effective where market participants can see that it is being "enforced, consistently and without fear or favour". Nexa also referred to the need for an anonymous complaints mechanism to enable competitors, customers, employees or contracts to raise ring-fencing concerns with the AER "without fear of reprisal".

Source: Nexa, Rule change request, 2 March 2026, pp. 7-11 and 27-41.

Nexa's rule change request included supporting submissions from the Australian Energy Council (AEC), Clean Energy Council, National Electrical and Communications Association (NECA), Smart Energy Council and Solar Citizens. These stakeholders identified similar concerns with the current ring-fencing arrangements. NECA, for instance, stated:[91]

> Electrical contractors are reporting lost work, constrained market access and price distortion arising from arrangements that blur the boundary between regulated monopoly activities and competitive services. Where regulated businesses are able to cross promote affiliated service providers, leverage publicly funded infrastructure, or utilise shared operational resources without robust and enforceable ring-fencing controls, the competitive neutrality principles that underpin the National Electricity Law are compromised.

The supporting submissions also noted the need for improvements in this area. AEC, for example, stated:[92]

> We support protecting consumers by enhancing competition in CER markets because weakening competitive dynamics will undermine affordability, innovation, and trust in the transition. Protecting consumers in a distributed energy future requires clear boundaries between regulated monopoly and contestable services and robust and enforceable ring-fencing protections.

Question 6: Nexa rule change request - Do the ring-fencing arrangements in the NER need to be strengthened?

1. Do you agree with Nexa's framing of the issues raised it its rule change request? Why/why not?
2. Do you think that there are any deficiencies in any of the following areas of the distribution ring-fencing arrangements that need to be addressed? If so, what are the deficiencies and how material are they:
   a. ring-fencing waiver conditions
   b. affiliate dealings and data access
   c. branding and cross-promotion
   d. financial resilience ring-fencing

91 Nexa, Rule change request, 2 March 2026, p. 56.
92 Nexa, Rule change request, 2 March 2026, p. 52.

e. reporting, complaints and enforcement transparency?

3. Do any of the problems that Nexa has identified in relation to the distribution ring-fencing arrangements also apply to the transmission ring-fencing arrangements?

3.2 Nexa proposes to amend the NER to strengthen the distribution ring-fencing arrangements

Nexa proposed that the solution to the issues raised in its rule change request is to strengthen the ring-fencing provisions and associated governance arrangements in Chapter 6 of the NER. It considers that its solution would both protect consumers and promote competition, while also preserving flexibility in the arrangements for genuine consumer benefit.[93] Nexa's proposed solution is to:

- elevate core ring-fencing obligations and waiver conditions from the AER's distribution ring-fencing guidelines into the NER (section 3.2.1)
- only allow DNSPs to obtain ring-fencing waivers as a last resort where there is an independently verifiable market failure and measurable consumer benefit (section 3.2.2)
- provide more guidance in the NER on affiliate dealings and data access, and branding and cross-promotion ring-fencing obligations (section 3.2.3)
- introduce financial resilience requirements that can be used to financially ring-fence a DNSP if its financial position deteriorates (section 3.2.4), and
- provide for greater transparency of the AER's compliance monitoring and enforcement activities and establish a ring-fencing complaint handling process (section 3.2.5).

The rule change request also sets out Nexa's proposed approach to implementation (section 3.2.6).

3.2.1 Elevate core ring-fencing obligations and waiver conditions into the NER

Nexa proposes that the NER be amended to elevate 'core' ring-fencing obligations and waiver conditions into Chapter 6 of the NER, while retaining the flexibility provided by ring-fencing guidelines. The way in which Nexa envisages these alternative arrangements would work is reflected in the following extract:[94]

> ...elevating core protections into the NER need not be overly prescriptive; the Rules can codify the key obligations and decision principles, while the AER Guidelines continue to operationalise and update implementation detail as markets evolve. In this sense, raising these elements within the Rules does not remove flexibility – but rather creates accountability.

This element of Nexa's rule change request would result in a material change in the ring-fencing governance arrangements currently provided for in the NER. The current arrangements accord the AER responsibility for determining the following through its ring-fencing guidelines:[95]

- the legal, accounting and functional ring-fencing obligations that are to apply to NSPs

93 Nexa, Rule change request, 2 March 2026, pp. 16-17,
94 Nexa, Rule change request, 2 March 2026, p. 5.
95 Clauses 6.17.2 and 6A.21.2 of the NER.

- the circumstances in which the AER can add to, or waive, these obligations.

Under Nexa's proposal, these matters would instead be set out in the rules, and the AER's guidelines would play a more subordinate role. This proposal is akin in some ways to the approach used in the gas pipeline regulatory framework, which provides for the following:

- the National Gas Law sets out the minimum legal, accounting and functional ring-fencing obligations that pipeline service providers must comply with and allows the AER to impose additional obligations through ring-fencing determinations[96]
- the National Gas Rules set out what the AER must be satisfied of before granting a waiver and require the AER to consider whether any conditions should be imposed.[97]

While the intent of this aspect of the Nexa's proposal is clear, the rule change request does not specify the 'core' ring-fencing obligations or decision principles that are to be elevated from the AER's current guidelines into the NER.

3.2.2 Only allow ring-fencing waivers as a last resort

Nexa suggests that the NER be amended to only allow waivers to be granted as a last resort. This would be where the AER is satisfied, based on evidence and independent verification, that:[98]

- there is a genuine market failure, with no commercial provider willing to provide the service, and competitive provision not reasonably expected to emerge in the foreseeable future (**market failure test**),and [99]
- DNSP provision of the service will deliver measurable long term benefits to consumers (e.g. lower prices, greater reliability or improved access) (**consumer benefit test**).

Nexa also suggests that the NER require:[100]

- DNSPs' ring-fencing waiver applications to include the following information, which must be published so that other stakeholders can scrutinise the information:
  - independent verification of the market failure and consumer benefit, supported by published reports, and
  - affirmative proof that granting the waiver will not foreclose competition, enable cross subsidisation, or otherwise confer an advantage on an affiliate.
- Any ring-fencing waiver that is granted to provide for mandatory:
  - annual independent audits and reporting by the DNSP against competition, consumer and other compliance key performance indicators
  - mid-term reviews by the AER, and
  - sunset clauses of 24-36 months and transparent exit plans.

Nexa stated that these changes would mean waivers are only granted in "exceptional circumstances", where it is clear DNSP participation in a market would "cause no harm to competition" and would also "guarantee measurable long-term benefits for consumers".[101]

---

96 For instance, sections 137-141 of the National Gas Law sets out the minimum legal, financial and functional ring-fencing requirements that pipeline service providers must comply with unless they obtain an exemption from the AER. Sections 142-145 of the NGL also allow the AER to impose additional ring-fencing requirements through ring-fencing determinations.

97 For instance, Part 5 of the National Gas Rules set out the process for applying for an exemption from any of the minimum ring-fencing obligations and the matters the AER must be satisfied of before granting an exemption.

98 Nexa, Rule change request, 2 March 2026, pp. 21-26 and Attachment 1, p. 3.

99 Nexa noted that this could involve a market sounding process.

100 Nexa, Rule change request, 2 March 2026, pp. 24-25.

101 Nexa, Rule change request, 2 March 2026, pp. 1, 21-26.

3.2.3 Provide more guidance on affiliate dealings and data access, and branding and cross-promotion ring-fencing obligations

Nexa proposes to address the deficiencies it has identified with both the affiliate dealings and data access, and branding and cross-promotion ring-fencing obligations by requiring more guidance in the NER on these obligations:

Affiliate dealings and data access

Nexa proposes that Chapter 6 of the NER be amended to reflect a stronger 'no preferential treatment' test towards DNSPs affiliates, including in relation to access to data and information. Nexa suggested this could be achieved by amending the NER to require the AER's distribution ring-fencing guidelines to:[102]

- prohibit DNSPs from providing affiliates preferential treatment, and
- require DNSPs to:
  - report on a range of measurable access to data/information parity metrics, including the price of access
  - provide independent verification that affiliates and third parties receive data simultaneously and equivalent interface performance, and
  - publish standardised, public protocols for data access and service interfaces.

Branding and cross-promotion

Nexa proposes that the NER be amended to embed a stronger 'no misleading representation' test to ensure consumers do not think they have to use a DNSP affiliate for a contestable service. Specifically, Nexa proposes that the NER require the AER's distribution ring-fencing guidelines to:[103]

- prohibit DNSPs from using any branding or representations that suggest consumers must use a DNSP's affiliate for contestable services
- require distinct branding to be used (e.g. separate logos, colour schemes and naming conventions) for affiliates and clear disclaimers at all consumer touchpoints that affiliate services are optional and contestable, and
- require DNSPs to publish branding artefacts and compliance reports, and to obtain independent audits to confirm compliance.

3.2.4 Financial resilience ring-fencing

Nexa proposes amending the NER to introduce financial resilience ring-fencing. This would be applied if a DNSP's financial position deteriorates to ensure the DNSP can continue to provide regulated services.

Specifically, Nexa proposes that the NER require the AER's distribution ring-fencing guidelines to:[104]

- Specify minimum financeability thresholds that DNSPs must meet (e.g. maintaining an investment-grade credit rating and adhering to minimum liquidity ratios) and require DNSPs to notify the AER within 5 days if there has been a breach of these thresholds.

102 Nexa, Rule change request, 2 March 2026, pp. 32-35.
103 Nexa, Rule change request, 2 March 2026, pp. 36-38.
104 Nexa, Rule change request, 2 March 2026, pp. 27-31 and Attachment 1, p. 3.

- Prescribe the 'safety switches' that would be triggered if the financeability thresholds are breached (or forecast to be breached). These safety switches would restrict DNSPs from transferring value out of the regulated business (e.g. via dividends or other payments) until the DNSP can meet the thresholds.

Nexa stated that these requirements would level the playing field between distribution network owners and third-party providers, because electricity consumers would no longer be able to be used to absorb any losses arising as a result of unregulated activities.[105]

This aspect of Nexa's proposal is modelled on an Ofgem initiative that is intended to ensure that energy networks remain financially resilient through the energy transition and can continue to provide regulated services if they are subject to financial shocks. Ofgem's rationale is reflected in the following statement:[106]

> Licensed network companies fund their investment through shareholders and through significant borrowing from lenders and investors. They often operate within complex multi layered group structures. The network ring-fence is a long-standing component of the regulatory framework and ensures the licensed network companies, on a standalone basis, have sufficient resources to be resilient and to continue to provide the essential services to consumers. Ultimately, the network ring-fence conditions give rise to regulatory restrictions to intercompany activity and decision making to minimise the licensee's exposure to financial and operational risk.

3.2.5 Monitor and enforce compliance with ring-fencing obligations and complaints handling

Nexa proposes that the NER be amended to provide for greater transparency of the AER's monitoring and enforcement activities and the implementation of an effective complaint handling process. It proposed that the AER be required to:[107]

- publish an annual ring-fencing compliance and enforcement report, which, at a minimum, discloses the AER's ring-fencing compliance and enforcement actions
- establish a public register for ring-fencing waivers and any other ring-fencing decisions
- develop and maintain an accessible complaints mechanism that allows for anonymous reporting of non-compliance with ring-fencing obligations and set out in its distribution ring-fencing guidelines how complaints will be handled.

In proposing these changes, Nexa stated that confidence to enter and participate in contestable markets can be undermined if ring-fencing enforcement activity is opaque or inconsistent.[108] The intent of Nexa's proposed changes is to give third party providers greater confidence that they are competing on a level playing field by providing for greater assurance that the AER is actively monitoring and enforcing compliance with ring-fencing obligations.[109]

3.2.6 Implementation and potential application of the rule change request

Nexa proposes an implementation timeframe in its rule change request. It proposes that once the rule is made:[110]

105 Nexa, Rule change request, 2 March 2026, p. 8.
106 Ofgem, Energy Networks Ring-Fence Review, 12 November 2025, p. 5.
107 Nexa, Rule change request, 2 March 2026, Attachment 1, pp. 3-4.
108 Nexa, Rule change request, 2 March 2026, p. 39.
109 Nexa, Rule change request, 2 March 2026, p. 40.
110 Nexa, Rule change request, 2 March 2026, Attachment 1, p. 3.

- the AER be provided 6 months to update its distribution ring-fencing guidelines, and
- DNSPs be provided with 12 months to comply with the new arrangements.

While Nexa's rule change request and the supporting submissions focused on the distribution ring-fencing arrangements, similar arrangements also apply to TNSPs under Chapter 6A of the NER. We may therefore need to consider whether any of the changes proposed by Nexa should also be made to the TNSP ring-fencing arrangements in Chapter 6A of the NER.

3.2.7 Alternative solutions

The Commission is interested in hearing from stakeholders on whether there are alternative solutions that would more efficiently address the problems identified by Nexa and better promote the interests of electricity consumers.

One potential alternative could be to retain the current ring-fencing provisions and governance arrangements in the NER and allow the AER to consider Nexa's proposals through a future review of the distribution ring-fencing guidelines.

Another potential alternative could be to maintain the current ring-fencing governance arrangements, but provide more guidance in the NER on the principles the AER should consider when developing its ring-fencing guidelines. This is akin to how other parts of Chapter 6 of the NER operate, such as the cost allocation arrangements, shared asset arrangements, and incentive scheme provisions.

Question 7: Nexa rule change request - Would Nexa's proposed solution address the identified problem?

1. Do you consider that Nexa's proposals would most efficiently address the issues identified in the rule change request? Why/why not?
2. What are your views on Nexa's proposals to:
   a. change the ring-fencing governance arrangements by elevating core ring-fencing obligations and waiver conditions into the NER?
   b. amend the NER to only allow ring-fencing waivers as a last resort?
   c. address other potential deficiencies in the current ring-fencing arrangements?
3. If core ring-fencing obligations were to be elevated into the NER as proposed by Nexa, what ring-fencing obligations do you think should be specified in the NER and what should be left to the AER's ring-fencing guidelines?
4. Are there any other implementation-related matters that we would need to consider if Nexa's proposed rule change were to be made (e.g. timeframes or grandfathering existing ring-fencing waivers)?
5. Do you think Nexa's proposed solution should only apply to the distribution ring-fencing arrangements, or should it also apply to the transmission arrangements?
6. Are there alternative solutions that would more efficiently address the identified problem and that would be more consistent with the NEO that you think the AEMC should consider? If so, describe what those solutions are and how they would be more consistent with the NEO.

3.3 Nexa has identified a range of potential benefits and costs of its proposed solution

Nexa did not include an estimate of either the costs or benefits that are likely to be associated with the proposed rule change. However, it did state that its proposal to strengthen the distribution ring-fencing arrangements would promote the NEO by:[111]

- **Supporting the development of competitive** distributed and consumer energy resources and services markets.
- **Enabling consumers to realise the benefits of competition,** such as lower and more efficient prices, greater consumer choice and product innovation.
- **Protecting consumers** from the costs and risks associated with DNSPs or their affiliates participating in competitive or unregulated activities, including by safeguarding DNSP financial resilience.
- **Providing for greater regulatory certainty** in terms of how the ring-fencing obligations and waivers will operate and how compliance will be monitored and enforced.

The table below summarises the specific benefits that Nexa identified for each element of its proposed rule change. In each of these cases, Nexa stated that the implementation and ongoing costs associated with each of these changes are likely to be low.[112]

Table 3.2: Summary of benefits identified by Nexa

Area of change	Benefits cited by Nexa
Elevating core ring-fencing obligations and waiver conditions into the NER	Nexa stated that the benefit of this component of its proposed rule is that protections are durable, enforceable and aligned with the long-term consumer outcomes as markets expand.
Codifying waiver conditions	Nexa stated that codifying waiver conditions would reduce ongoing administrative and transaction costs by standardising waiver assessment and narrowing discretion. It considered a further benefit to be that confidence that waivers remain exceptional and aligned with the NEO would be strengthened.
Affiliate dealings and data access	Nexa stated that strengthening these components will improve competitive neutrality and reduce dispute risk. It is also considered that the benefits would be a reduction in the scope for informal or preferential arrangements, lower barriers to entry for third parties, and support more efficient market outcomes.
Branding and representation	Nexa stated that its proposal for stronger requirements around branding and representation will reduce consumer confusion, improve consumer choice and support competition.
Financial ring-fencing	Nexa stated that its proposal to improve financial ring fencing will protect service continuity and reduce the risk for more costly interventions.
Reporting, complaints and enforcement transparency	Nexa stated that its proposal to require additional reporting, complaints and enforcement transparency will increase

111 Nexa, Rule change request, 2 March 2026, pp. 2, 20 and Attachment 1, p. 5.
112 Nexa, Rule change request, 2 March 2026, pp. 21-41.

Area of change	Benefits cited by Nexa
	stakeholder confidence that ring-fencing is being applied consistently and effectively.

Source: Nexa, Rule change request, 2 March 2026, pp. 5 and 21-41.

Similar benefits were cited in the supporting submissions attached to Nexa's rule change request. For example, the Smart Energy Council stated that:[113]

> By addressing barriers and clarifying market arrangements for distributed and consumer energy resources, the reform would support investment certainty, stimulate innovation and improve consumer outcomes across the NEM.

NECA, similarly stated that:[114]

> Strengthening ring-fencing, improving transparency, and reinforcing competitive neutrality safeguards will protect consumers support genuine market competition and enhance long term system efficiency across the National Electricity Market.

Question 8: Nexa rule change request - What are the costs and benefits of Nexa's proposed solution?

1. What do you consider the costs and benefits of Nexa's proposed solution, including the risks and benefits of elevating ring-fencing obligations into the NER?

113 Nexa, Rule change request, 2 March 2026, p. 51.
114 Nexa, Rule change request, 2 March 2026, p. 56.

4 ENA's enabling DNSP led EVCI rule change request

The ENA has submitted a rule change request to address what it describes as a 'chicken and egg' problem with the uptake of electric vehicles and the deployment of EV charging infrastructure (EVCI) and to 'unlock affordable EV charging' that is accessible to the public. The ENA considers that public EVCI is important to lower emissions in the transport sector and to make better use of the capacity in the existing electricity grid.

The ENA proposes changes to the NER, which at a high level would allow:

- DNSPs to roll out kerbside EVCI connected to existing distribution assets (e.g. power pole mounted EVCI) and provide retailers and other commercial suppliers of EV charging services (EV charging service providers) open access to EVCI services
- EV charging service providers to compete to supply electricity and charging services to EV users at the EVCI charging point.

The ENA considers that public charging is important to lower emissions and make better use of the capacity in the existing electricity grid.

It proposes changes to the service classification provisions in Chapter 6 of the NER, along with a number of other changes to the NER to enable this to occur.

This chapter provides further detail on the ENA's rule change request and seeks stakeholder feedback on:

- the issues identified in the rule change request (section 4.1)
- the proposed solution and any potential alternative solutions (section 4.2)
- the costs and benefits of the proposed solution and how it would promote the NEO (section 4.3).

This chapter should be read in conjunction with the ENA's rule change request, which can be found on our website here.

4.1 ENA considers Australia is stuck in a 'chicken and egg' cycle with EVs and EVCI that DNSPs could help to break

The ENA contends that Australia is stuck in a 'chicken and egg' cycle that is preventing the realisation of the efficiencies, emissions reduction and other benefits associated with EV uptake:[115]

> [EVCI] is caught in a "chicken-and-egg" dilemma. Setting up and maintaining charging stations requires capital investment, but with too few EVs on the road, viable business models for private providers are limited and investment is slow. At the same time, without enough public chargers, consumers are hesitant to switch to EVs, creating a cycle that keeps both adoption and infrastructure growth stalled.

In the ENA's view, DNSPs could help break the chicken and egg cycle by installing kerbside EVCI connected to existing distribution assets that EV charging service providers could then use to compete to supply EV users. According to the ENA, a DNSP EVCI roll out would deliver a range of benefits, but DNSPs are currently prevented from performing this role because EVCI services are

115 ENA, Rule change request, 2 April 2026, pp. 4-5, 10-11.

not classified as a direct control service. The ENA stated that this presents two key constraints on the ability of DNSPs to roll out EVCI:

- First, it means that DNSPs can't recover the costs of rolling out kerbside EVCI from electricity consumers through regulated charges.[116]
- Second, it means that DNSPs can't use their existing infrastructure, workforce and systems to roll out the EVCI because they are subject to the functional ring-fencing obligations in AER's distribution ring-fencing guidelines.[117]

The ENA has not directly addressed the potential for competition in the market for kerbside EVCI services in its rule change request. It has not, for example, included any analysis to demonstrate that this is a monopoly service, or that there is some other market failure that would prevent competition emerging in this market (or a part of this market). The ENA has instead focused on the 'chicken and egg' problem and the potential benefits of allowing DNSPs to leverage their existing assets and workforce to accelerate the deployment of kerbside EVCI, which it described as follows:[118]

> Rapid electric vehicle uptake is crucial to Australia achieving its net zero targets. However, the uptake of electric vehicles is currently constrained by a lack of publicly accessible, convenient, reliable and equitably distributed electric vehicle chargers. Currently, there are 45 EVs for every public charging point in Australia, compared with a global average of just 11. This also unfairly affects people who can't charge at home, such as those living in apartments.
>
> A rapid, scalable and cost-effective solution is to allow DNSPs to leverage their existing workforces and distribution network assets, such as power poles to install, own and maintain kerbside electric vehicle chargers. This would allow DNSPs to deploy electric vehicle chargers at pace using existing workforces and assets that DNSPs already operate safely and efficiently at scale.
>
> This approach offers faster deployment, lower costs, better reliability, improved equity of access, and stronger competition for retail charging services.

4.1.1 DCCEEW has also identified a 'chicken and egg' problem with EV and EVCI and a range of other potential barriers to the commercial deployment of EVCI

The Department of Climate Change, Energy, the Environment and Water (DCCEEW) has also submitted an EVCI related rule change which we are separately consulting on.[119]

Like the ENA, DCCEEW considers that there is a 'chicken and egg' problem with EV and EVCI, but has also identified a number of other potential barriers to a commercial roll out of EVCI, including:[120]

- DNSP site identification processes, connection times and charges, facility access arrangements and access fees
- Locations that are likely to be uneconomic (i.e. they are unlikely to be profitable) for third party providers to install, own and maintain EVCI, but are still required to create a network of charging infrastructure to support the uptake of EVs.

116 ENA, Rule change request, 2 April 2026, pp. 10-11.
117 ENA, Rule change request, 2 April 2026, pp. 10-11.
118 ENA, Rule change request, 2 April 2026, p. 10.
119 DCCEEW, Rule change request: Accelerating Electric Vehicle Charging Program, 28 April 2026.
120 DCCEEW, Rule change request: Accelerating Electric Vehicle Charging Program, 28 April 2026, p. 7.

The DCCEEW rule change request is being undertaking separately to this rule change request. It does raise some issues, such as other barriers to the roll out of EVCI, that will also be important to understand for the ENA rule change request.

Box 2: DCCEEW's Facilitating EV charging infrastructure rollout under Commonwealth grants rule change request

The Commonwealth Government has announced a $40 million Accelerating EV Charging Program to help facilitate the roll out of EVCI. The proposed grant program, which will conclude on 30 June 2029, would require DNSPs to perform certain activities to address the DNSP related barriers listed above. For example, DNSPs would be responsible for identifying EVCI suitable sites in metropolitan areas and regional black spots and performing connection works.

This time and scope-limited program is intended to only allow DNSPs to install EVCI where there is either no prospect for competition (e.g. because the areas are uneconomic), or there is no interest from third party providers at the time the program commences.

DCCEEW's *Facilitating EV charging infrastructure rollout under Commonwealth grants* rule change request also proposes to allow DNSPs to be a provider of last resort for the installation of kerbside alternating current (AC) slow charging (<24kW) in metropolitan areas where third party charge point operators are unwilling or unable to do so and to install direct current (DC) fast charging (>24kW) in "uneconomic" regional blackspot areas but not in metropolitan areas where competition is already emerging. DNSPs would install and maintain the EVCI under this proposal, but a commercial operator would be appointed to operate the site.

DCCEEW is also proposing a time-bound rule change that would enable DNSPs to recover from consumers the costs that they incur that are not covered by payments from charge point operators or the $40 million grant.

Note: Further detail on this rule change request can be found in the Facilitating electric vehicle charging infrastructure under Commonwealth grants consultation paper.

Question 9: ENA rule change request - Do you agree with ENA that there is a problem with the roll out of EVCI?

1. Do you think that there is a 'chicken and egg' problem with EVs and kerbside EVCI? If so:
   a. how material do you think this problem is?
   b. do you think it is a permanent or temporary problem?
   c. do you think the problem is limited to:
      i. kerbside AC slow charging (<24kW), or does it apply more generally to other forms of EVCI, including DC fast charging (>24kW)?
      ii. particular locations (e.g. regional areas) or does it apply in all locations, including metropolitan areas?
   d. how do you think this problem could be best addressed and do you think this should be funded by electricity consumers or other mechanisms?
2. Are there any other problems or barriers that you think third party providers might face in developing kerbside EVCI that could be addressed through the NER?
3. Do you think that DNSPs could roll out kerbside EVCI at a lower cost and faster rate than other providers, if the proposed rule were made? If so, why do you think DNSPs have this advantage over other third party providers?

4. How do you think the market for the provision of public EV charging services is likely to evolve over time?

4.2 ENA proposes to amend the NER to provide DNSPs the option to develop kerbside EVCI

The ENA proposes that the NER be amended to enable DNSPs to deploy kerbside EVCI to address the issues identified in its rule change request, should they wish to do so. It proposes changes to the rules that would:

- enable DNSPs to install, own and maintain EVCI connected to existing distribution assets and to provide EVCI services to EV charging service providers, who would then compete to supply electricity and charging services to EV users (section 4.2.1)
- require DNSPs that are intending to install EVCI to publish a Distribution EVCI Deployment Strategy before doing so (section 4.2.2)
- allow DNSPs that want to provide distribution EVCI services in their current regulatory control period to do so through transitional arrangements (section 4.2.3).

4.2.1 Allowing DNSPs to install, own and maintain kerbside EVCI and to supply EVCI services to EV charging service providers

The ENA proposes that the NER be amended to allow DNSPs to opt in to installing, owning and maintaining kerbside EVCI and to provide EVCI services to EV charging service providers. It proposes changes to Chapter 6 and, where relevant, Chapter 10 of the NER, that would:[121]

- **Define the scope of the EVCI services that DNSPs can provide** through the inclusion of the following new terms in the NER:
  - **EVCI:** Infrastructure that can be used to charge electric vehicles.
  - **Distribution EVCI**: EVCI owned and maintained by a DNSP that is installed on existing publicly accessible distribution network assets owned by the DNSP.
  - **Distribution EVCI Service**: Distribution service provided by a DNSP for access to Distribution EVCI that does not involve the supply of electricity.
- **Allow DNSPs to propose to provide Distribution EVCI Services** through their regulatory proposals.
- **Require the AER to classify a Distribution EVCI Service as a direct control service** if a DNSP proposes to provide this service in its regulatory proposal, but leave it up to the AER to determine if it should be a standard control or alternative control service.

The ENA also noted changes may need to be made to the metering rules to facilitate open access to a Distribution EVCI, but these are not included in the proposed rule .[122]

The ENA is not proposing any restrictions on when DNSPs could install EVCI or the number or types of EVCI they could install.

It is worth noting that the ENA's proposal that the rules classify Distribution EVCI Service as a direct control service would, in effect, bypass the current standard service classification process in Chapter 6 of the NER where the AER determines service classification. AER's role under ENA's

121 ENA, Rule change request, 2 April 2026, pp. 18-19, 25-29.
122 ENA, Rule change request, 2 April 2026, p. 13.

proposal would be limited to determining whether the Distribution EVCI service should be classified as either:

- a standard control service, which would mean the costs of providing the service are recovered from all electricity consumers, or
- an alternative control service, which would mean the costs are recovered from users of the EVCI service (i.e. retailers or aggregators who then sell EV charging services to EV users).

The Commission will need to consider whether the service is a distribution service, the form of regulation factors and revenue and pricing principles

We must consider additional factors, as well as the NEO, when considering ENA's proposal for the rule to classify a service as a direct control service. We must take into account:

- the form of regulation factors in section 2F of the NEL and any other matter we consider relevant when making such a decision (see Chapter 6)[123]
- the revenue and pricing principles in section 7A of the NEL.[124]

The ENA has not directly addressed these matters in its rule change request. The box below provides an overview of the types of matters the Commission would need to consider when applying the form of regulation factors to kerbside EVCI.

Box 3: Matters the Commission will need to consider when applying the form of regulation factors

When applying the form of regulation factors, the Commission will need to consider the nature and boundaries of the market for EVCI services and if kerbside EVCI is a market in its own right, or a sub-market. This will require consideration to be given to the product, geographic and temporal dimensions of the market for kerbside EVCI services.

The Commission will also need to consider:

- the presence and extent of any potential barriers to entry in this market, which could occur due to high capital costs or economies of scale that make it difficult to duplicate on a competitive basis generally, or in particular geographic areas or for particular types of kerbside EVCI (e.g. AC versus DC charging)
- whether there are any network externalities (i.e. interdependencies) between the provision of kerbside EVCI and any other:
  - network services provided by DNSPs, or
  - service provided by DNSPs in any other market, and/or
- the availability of substitutes for kerbside EVCI services and the elasticity of demand for those services
- whether any market power possessed by a DNSP is, or is likely to be, mitigated by any countervailing market power held by a user of the service.

123 Section 88A of the NEL.
124 Section 88B of the NEL.

4.2.2 DNSP deployment strategy

A DNSP that wants to provide distribution EVCI services would first need to develop and publish a Distribution EVCI Deployment Strategy under the ENA's proposal. The strategy would set out:[125]

- the DNSP's approach to deploying EVCI (including how it will identify areas to deploy EVCI) and how it has engaged with relevant stakeholders in developing the approach, and
- how the DNSP will ensure open access to the EVCI by EV charging service providers.

This obligation would be set out in Chapter 6 of the NER.[126]

ENA states that this strategy document is intended to increase transparency and accountability, help inform EV charging service providers' planning activities and "foster collaboration" with governments, stakeholders and customers.[127] The rule change does not refer to the AER having a role in approving this strategy.

The ENA rule change request does not provide detail on how any roll out of kerbside EVCI by DNSPs would be regulated and what, if any, constraints would apply to the roll out in terms of the type of EVCI that can be rolled out (e.g. AC and/or DC), the number of EVCI that can be rolled out, or the locations in which they can be rolled out. Details on the service standards that would apply to any EVCI DNSPs do roll out (i.e. to ensure that the EVCI is maintained and available to be used by EV users) is also not included in the rule change request. The Commission welcomes stakeholder feedback on these matters.

4.2.3 Enabling earlier implementation through transitional arrangements

The ENA proposes that Chapter 11 of the NER be amended to allow DNSPs that want to provide distribution EVCI services in their current regulatory control period to apply to the AER to reopen their regulatory determination.

A DNSP that wants to start providing distribution EVCI services in its current regulatory control period would need to make an application to the AER at least 18 months before the end of that period.[128]

The AER would then be required to consult with the DNSP and other persons it considers appropriate. If the AER decides that the determination should be reopened, it must then determine whether the service should be a standard or alternative control service and the changes to be made to the regulatory determination.[129] Like other reopener provisions in Chapter 6 of the NER, the AER would be required to make its decision within four months[130] of receiving the application and the amended determination would take effect from the start of the next regulatory year.[131]

The ENA stated that these transitional arrangements are required because the rules currently provide for service classification to be locked in for the duration of the regulatory control period and some DNSPs' current control periods are not due to end for 5 years.[132]

---

125 ENA, Rule change request, 2 April 2026, p. 28.

126 ENA, Rule change request, 2 April 2026, p. 26.

127 ENA, Rule change request, 2 April 2026, p. 21.

128 The application would need to set out if the DNSP is proposing that the service be classified as an SCS or ACS and the proposed adjustments to the current regulatory determination. It would also need to set out how the DNSP has consulted with stakeholders in developing the application, and information regarding the DNSP's work on its EVCI Development Strategy. See ENA, Rule change request, 2 April 2026, p. 13.

129 The change must be limited to what is necessary to reflect the classification of the distribution EVCI service as a direct control service. ENA, Rule change request, 2 April 2026, p. 13.

130 For more complex matters, the AER would be able to extend this time by two months.

131 ENA, Rule change request, 2 April 2026, pp. 30-32.

132 ENA, Rule change request, 2 April 2026, p. 22.

4.2.4 Alternative solutions

The Commission is interested in hearing from stakeholders on whether there are alternative solutions that would more efficiently address the identified problems and better promote the interests of electricity consumers.

Some potential alternatives, which are not necessarily mutually exclusive, include:

- Not amending the NER and instead leaving it to the AER to consider any proposals by DNSPs to classify distribution EVCI services as a direct control service under the standard service classification process in Chapter 6 of the NER.
- Waiting until the end of the Commonwealth's $40 million Accelerating EV Charging Program (if the rule is made) to see if this addresses the 'chicken and egg' problem and to determine if there are any other market failures that need to be addressed through changes to the NER (e.g. the supply of EVCI services in uneconomic areas).
- Amending the NER to enable DNSPs to roll out kerbside EVCI, but imposing some restrictions on this so that it is more targeted to the problem it is intended to address. For example, if the problem is:
  - a chicken and egg problem, as described by the ENA, then it may be possible to limit the number, type, location and/or period of time over which DNSPs can install EVCI to address this problem, and/or
  - that there may be some uneconomic areas where third party providers would not develop kerbside EVCI, then it may be possible to limit DNSPs' involvement in the market as a last resort provider of distribution EVCI services in these areas and leave those areas that are commercial to the third party providers to supply.
- Addressing other barriers to the deployment of public kerbside EVCI by third party providers, which may involve a combination of rule changes (e.g. to address connections and network facility access related barriers) and actions by governments (e.g. to help overcome any financial barriers associated with uneconomic sites).

Question 10: ENA rule change request - Would the ENA's proposed solution address the identified problem?

1. Do you consider the ENA's proposal to amend the NER to enable DNSPs to install, own and maintain EVCI and to provide distribution EVCI services on an open access basis would most efficiently address the issue identified in the rule change request? If not, why?
2. Do you consider that the distribution EVCI service identified by ENA should be a 'distribution service' (i.e. a service provided by means of, or in connection with, a distribution system)? Why/why not?
3. Do you have any feedback on the proposed requirement for a DNSP to develop a deployment strategy? Would any additional regulatory oversight be required?
4. If the ENA's proposed rule change was to be made, do you think any constraints or time-limits should be imposed?
5. Do you agree with the proponent's proposal that DNSPs should be able to recover costs in the current regulatory control period through a reopener if they wish to provide EVCI in the current period? Why/why not?

6. Economic regulation can, in some cases, be beneficial in establishing service standards and outcomes that deliver the services required by customers. Do you consider that would be a potential benefit of ENA's proposed solution in the case of kerbside EVCI?
7. Are there alternative solutions that would more efficiently address the identified issues and be more consistent with the NEO that you think the AEMC should consider? If so, please describe the solutions and explain how they would be more consistent with the NEO.

4.3 ENA has identified a range of potential benefits and costs of the proposed solution

The ENA did not include an estimate of the costs or benefits that are likely to be associated with the proposed rule change. However, it did state that enabling DNSPs to roll out EVCI would "deliver public kerbside charging at lower cost, faster, with more competition and less disruption than other operators".[133]

The ENA also stated that the rule change would support the achievement of the NEO in the following ways:[134]

- **Facilitating efficient investment in, operation and use of, existing distribution assets,** which the ENA noted is "likely to lead to lower prices for all electricity consumers".[135] In doing so, the ENA stated that increased utilisation of existing distribution network assets would reduce total system costs[136] and that allowing DNSPs to use their existing workforce and network assets would enable EVCI to be rolled out:[137]
  - more rapidly and with less disruption to the community than other kerbside options, with each DNSP reportedly able to install up to 40 pole mounted chargers per week
  - at a lower cost than other kerbside options, with DNSP installation estimated to be 50% cheaper than other options.
- **Promoting competition for the supply of charging services to EV users** by providing EV charging service providers open access to the Distribution EVCI, which the ENA stated is "likely to lead to lower prices, innovation and improvements in the quality of supply of electric vehicle charging services for customers".[138]
- **Improving the reliability** of both:[139]
  - EVCI services, because DNSPs would be able to use their established asset management and outage response systems to "improve EVCI reliability and uptime"[140]
  - distribution services more generally through enhanced system flexibility.
- **Helping to achieve jurisdictional emissions targets** by reducing the barriers to the uptake of EVs posed by the current limited availability of EVCI, including in harder to serve areas and locations that the ENA stated are "unlikely to be served by a purely commercial market".[141] In

133 ENA, Rule change request, 2 April 2026, p. 1.
134 ENA, Rule change request, 2 April 2026, pp. 14-16.
135 ENA, Rule change request, 2 April 2026, p. 14.
136 ENA, Rule change request, 2 April 2026, p. 14.
137 ENA, Rule change request, 2 April 2026, p. 6.
138 ENA, Rule change request, 2 April 2026, p. 14.
139 ENA, Rule change request, 2 April 2026, p. 15.
140 ENA, Rule change request, 2 April 2026, p. 15.
141 ENA, Rule change request, 2 April 2026, p. 16.

the ENA's view, a DNSP roll out would help to "advance equitable access to EVCI and broaden participation in transport decarbonisation", which would help to achieve jurisdictional emissions targets.[142]

The ENA also stated that while there were likely to be some administrative and transitional costs associated with the change in service classification and transitional arrangements, the costs were likely to be "very small" and "outweighed considerably" by the benefits to both EV users and electricity consumers outlined above.[143]

In terms of the potential impacts on competition, the ENA stated that its proposed solution would "**not** crowd out other approaches", or preclude DNSPs from providing services to third party providers that want to install EVCI on distribution assets.[144] The ENA did not provide any further detail on how competition in this market would be preserved where a DNSP is providing a regulated service that is competing with the services provided by third party providers of EVCI.

While not discussed in ENA's rule change request, the AER's decision on whether to classify the service as a standard control or alternative control service could have a significant influence on a DNSP's incentives to install kerbside EVCI and the potential costs and benefits associated with the proposed rule change. This is because if the AER classifies the service as:

- An alternative control service, then DNSPs are only likely to have an incentive to install EVCI in locations where it would be economic to do so because they would be responsible for any costs that are not recovered from users of the service. This could mean kerbside EVCI is not installed in uneconomic locations, even though there may be a broader economic benefit from doing so. A potential benefit of this classification is that it could still allow for competition from third party providers, because DNSPs would not be able to use all electricity consumers to cross-subsidise this service.
- A standard control service, then DNSPs may have an incentive to install EVCI in both economic and uneconomic areas, but this could potentially occur in an inefficient manner unless additional constraints are imposed on the number, type and/or location in which DNSPs can install EVCI. This is because, in contrast to alternative control services, electricity consumers are responsible for all the costs associated with standard control services. Classifying the service as a standard control service is also likely to mean that competition from third party providers is unlikely to emerge over time, because DNSPs would be able to use electricity consumers to cross-subsidise the provision of this service.

Question 11: ENA rule change request - What are the costs and benefits of ENA's proposed solution?

1. What do you consider the direct and indirect costs and benefits over the short and longer term would be of the ENA's proposal to amend the NER to enable DNSPs to roll out EVCI and to provide EV charging service providers open access to EVCI services?
2. Do you think these costs and benefits would differ depending on whether the AER classifies the service as a standard control service or an alternative control service? Are there any other interdependencies (e.g. with government policies) that we should take into account?

142 ENA, Rule change request, 2 April 2026, p. 17.
143 ENA, Rule change request, 2 April 2026, p. 17.
144 ENA, Rule change request, 2 April 2026, pp. 2 and 9.

5 Making our decisions on the rule change requests

When considering a rule change request, such as the Nexa and ENA rule change requests, the Commission considers a range of factors. This chapter outlines:

- issues the Commission must take into account (section 5.1-section 5.2)
- our proposed assessment criteria (section 5.3)
- our options for making rules (section 5.4)
- our ability to make a rule for the Northern Territory (section 5.5)

We would like your feedback on the proposed assessment framework, which as noted in chapter 1 will also apply to the Review.

5.1 The Commission must act in the long-term interests of consumers

The Commission is bound by the National Electricity Law (NEL) to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).[145]

The NEO is:[146]

> to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—
>
> (a) price, quality, safety, reliability and security of supply of electricity; and
>
> (b) the reliability, safety and security of the national electricity system; and
>
> (c) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or
>
> (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.[147]

5.2 We must also take these factors into account

In addition to the NEO, the Commission must take into account certain other factors and principles when it makes rules on particular subject matters.

Relevantly for the ENA rule change request, the Commission must also take into account:

- the **form of regulation factors** in section 2F of the NEL,[148] when making a rule that specifies an electricity network service as a direct control network service
- the **revenue and pricing principles** in section 7A of the NEL,[149] when making a rule that regulates the revenues earned, or prices charged by owners, controllers or operators of

145 Section 88 of the NEL.
146 Section 7 of the NEL.
147 Section 32A(5) of the NEL.
148 Section 88A of the NEL.
149 Section 88B of the NEL.

distribution systems, for the provision by them of services that are the subject of a distribution determination.[150]

The form of regulation factors are:

> (a) the presence and extent of any barriers to entry in a market for electricity network services;
>
> (b) the presence and extent of any network externalities (that is, interdependencies) between an electricity network service provided by a network service provider and any other electricity network service provided by the network service provider;
>
> (c) the presence and extent of any network externalities (that is, interdependencies) between an electricity network service provided by a network service provider and any other service provided by the network service provider in any other market;
>
> (d) the extent to which any market power possessed by a network service provider is, or is likely to be, mitigated by any countervailing market power possessed by a network service user or prospective network service user;
>
> (e) the presence and extent of any substitute, and the elasticity of demand, in a market for an electricity network service in which a network service provider provides that service;
>
> (f) the presence and extent of any substitute for, and the elasticity of demand in a market for, electricity or gas (as the case may be);
>
> (g) the extent to which there is information available to a prospective network service user or network service user, and whether that information is adequate, to enable the prospective network service user or network service user to negotiate on an informed basis with a network service provider for the provision of an electricity network service to them by the network service provider.

The revenue and pricing principles are:

> (2) A regulated network service provider should be provided with a reasonable opportunity to recover at least the efficient costs the operator incurs in:
>
> > (a) providing direct control network services; and
> >
> > (b) complying with a regulatory obligation or requirement or making a regulatory payment.
>
> (3) A regulated network service provider should be provided with effective incentives in order to promote economic efficiency with respect to direct control network services the operator provides. The economic efficiency that should be promoted includes-
>
> > (a) efficient investment in a distribution system or transmission system with which the operator provides direct control network services; and
> >
> > (b) the efficient provision of electricity network services; and
> >
> > (c) the efficient use of the distribution system or transmission system with which the operator provides direct control network services.
>
> (4) Regard should be had to the regulatory asset base with respect to a distribution

150 NEL schedule 1 items 25 and 26.

system or transmission system adopted—

(a) in any previous—

(i) as the case requires, distribution determination or transmission determination; or

(ii) determination or decision under the National Electricity Code or jurisdictional electricity legislation regulating the revenue earned, or prices charged, by a person providing services by means of that distribution system or transmission system; or

(b) in the Rules.

(5) A price or charge for the provision of a direct control network service should allow for a return commensurate with the regulatory and commercial risks involved in providing the direct control network service to which that price or charge relates.

(6) Regard should be had to the economic costs and risks of the potential for under and over investment by a regulated network service provider in, as the case requires, a distribution system or transmission system with which the operator provides direct control network services.

(7) Regard should be had to the economic costs and risks of the potential for under and over utilisation of a distribution system or transmission system with which a regulated network service provider provides direct control network services.

5.3 We propose to assess the rule changes using five assessment criteria, which we will also use for the Review

Considering the NEO and the issues raised in the Nexa and ENA rule change requests, the Commission proposes to assess these rule change requests against the set of criteria outlined below. These assessment criteria, which we also propose to use for the Review, reflect the key potential impacts - costs and benefits - of the rule change requests and any changes to the regulatory framework that may arise as a result of the Review. We consider these impacts within the framework of the NEO.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more preferable rule using the same set of assessment criteria and impact analysis methodology where feasible.

5.3.1 Assessment criteria and rationale

Our proposed assessment criteria and rationale for considering each of these criteria is as follows:

- **Outcomes for consumers:** Promoting the long term interests of electricity consumers is a central tenet of the regulatory framework and as consumers become more active in the electricity market, it is becoming increasingly important to ensure that the market is delivering the outcomes consumers expect. We intend therefore to consider the extent to which the proposed rule changes and reform options identified through the Review will promote consumer interests, including by providing consumers:
  - access to the services that they want and need
  - more efficient price signals, better incentives and opportunities.

- **Principles of market efficiency:** The regulatory framework is intended to promote economic efficiency, both in the provision and use of electricity services in contestable and non-contestable markets. As the energy transition progresses, market efficiency is likely to be increasingly challenged, including due to increased risk and uncertainty. We intend to consider the extent to which the proposed rule changes and reform options identified through the Review will:
  - promote productive, allocative and dynamic efficiency in the provision and use of network and other electricity services
  - provide NSPs appropriate incentives to deliver the services that consumers want and to pursue expenditure and operational efficiencies
  - provide for an efficient allocation of risk and a balanced risk/reward package
  - foster competition in contestable markets, including by ensuring appropriate ring-fencing arrangements are in place.
- **Innovation and flexibility:** As the energy transition progresses, it will be increasingly important for the regulatory framework to support innovation and flexibility. We intend to consider the extent to which the proposed rule changes and reform options identified through the Review will:
  - support innovation and provide for the benefits of innovation to be passed through to consumers
  - be sufficiently flexibility to accommodate market, technological, policy, climate and other changes.
- **Emissions reduction:** Network regulation, including the determination of what services are regulated and how ring-fencing will apply, can have a direct impact on consumer and NSP behaviour and the achievement of emissions reduction targets. We intend to consider the impact that the proposed rule changes and any reform options identified through the Review may have on the achievement of jurisdictions' emissions reduction targets.
- **Principles of good regulatory practice:** Any potential changes to the regulatory framework arising as a result of either the rule change requests, or reform options identified in the Review will need to follow principles of good regulatory practice. We intend therefore to consider the extent to which the proposed rule changes and reform options identified through the Review would:
  - provide for a predictable and stable regulatory framework
  - promote transparency and simplicity for all stakeholders
  - support flexibility and resilience in the regulatory framework by employing a principles-based approach, except where prescription is necessary
  - align with the broader direction of reforms.

Question 12: Assessment criteria

1. Do you agree with the proposed assessment criteria, which would be used for both the Nexa and ENA rule change requests and the Review? Are there any additional criteria that you think the Commission should consider, or are there criteria that you consider are not directly relevant to the issues likely to be considered in the rule change requests or the Review?

5.4 We have three options when making our decision

After using the assessment framework to consider each rule change request, the Commission may decide:

- to make the rule as proposed by the proponent[151]
- to make a rule that is different to the proposed rule (a more preferable rule), as discussed below, or
- not to make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.[152]

5.5 We may make a rule to apply in the Northern Territory

Parts of the NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.[153]

The proposed rules would amend provisions in NER chapter 6 that apply in the Northern Territory.[154]

The Commission is able to make different rules for the Northern Territory (including making no rule), taking into account the different characteristics of the Northern Territory electricity systems. For this rule change, the Commission will consider whether to:

- make a uniform rule that applies to both the Northern Territory systems and the national electricity system
- make a different rule for the Northern Territory, or
- make no rule for the Northern Territory.

151 Nexa describes its proposed rule in Attachment 1of its rule change request, while the ENA describes its proposed rule in Appendix A of its rule change request.

152 Section 91A of the NEL.

153 National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (**NT Act**). The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

154 Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available on the AEMC website at: https://energy-rules.aemc.gov.au/ntner.

A Application of our prioritisation framework

As noted in Chapter 1 we have developed a prioritisation framework to help identify those areas that are a priority for further consideration through the Review.

We have used this framework, along with the priority indicators in the table below, to identify the key focus areas for Package 1. Our assessment of these focus areas and some other potential issues that we found were not a priority for Package 1 of this Review is set out in Tables A.2-A.6.

Table A.1: Prioritisation framework - Criteria and rating scale

Criteria	Description	Priority indicator
Materiality	How significant is this issue and how strong is the evidence base? How much do consumers stand to benefit from addressing this issue?	**High** (3/3)– consumers stand to significantly benefit and there is evidence that this is an issue. **Medium** (2/3)– the consumer benefit or evidence is unclear. **Low** (1/3)– the consumer benefit is low and there is evidence to support that this is not a substantive issue.
Implementation feasibility	Can solutions be implemented by the AEMC through NER changes, or do they require agreement and coordination from other actors (e.g. Energy Ministers)? If coordination is required, how difficult will it be? Are there other implementation challenges?	**High** (3/3)- solutions could be implemented through the NER and AER guidelines **Medium** (2/3)– solutions would require voluntary cooperation from the AER and/or minor NEL changes. **Low** (1/3)– solutions would require substantive NEL changes, other law changes or coordination of other actors.
Other processes	Is there another rule change process already underway, or are there formal review processes already established, that are better placed to review this aspect of the framework and efficiently address the identified issue?	**Not addressed** (3/3)– There is no other process underway or formal review mechanism. **Partially addressed** (2/3)– part of the issue is addressed by another process. **Addressed** (1/3)– another process is established to consider this issue/or has considered this issue recently.
Separability	Is this an issue that is difficult to consider in isolation such that it should be considered through a holistic review of this nature? Or can it be separated and progressed through a stand-alone process that would likely lead to faster resolution of the issue (e.g. a rule change or	**Not separable** (3/3)– this issue is difficult to consider in isolation with strong interactions with other parts of the framework. **Partially separable** (2/3)– the issue is largely separable and interactions with other parts of the framework are fewer or more minor.

Criteria	Description	Priority indicator
	other process)?	**Separable** (1/3)– this is a separable issue with limited interactions with other parts of the framework.

Table A.2: Determining what services should be regulated

Criteria	Description	
Description of issue	See section 2.2	
Materiality	High	This is a significant issue, with any decisions on how to classify services likely to have a material impact on consumers, competition and the market more generally, particularly in nascent markets. Recent AER decisions support that the framework is currently unclear on these matters.
Implementation feasibility	High	Solutions can be implemented through changes to the NER and AER guidelines.
Other processes	Partially addressed	Some of these issues are also raised in the DCCEEW and ENA EVCI related rule changes, but the issues go beyond the scope of these rule changes. The ENA rule change will be considered in parallel to the Review.
Separability	Not separable	Issues such as service classification, ring-fencing, and the approach to shared assets need to be considered together. This part of the framework also has fundamental implications for future rule changes (e.g. DSO).
Consider as part of Review?	Yes	

Table A.3: Effectiveness of ring-fencing arrangements

Criteria	Description	
Description of issue	See section 2.3	
Materiality	High	Ring-fencing arrangements are a key tool to ring fence regulated network services from other services and limit the ability of NSPs to impede competition in contestable markets, which is a risk in areas where new services are evolving.
Implementation feasibility	High	Solutions can be implemented through changes to the NER and AER guidelines.
Other processes	Partially addressed	Some of these issues are also raised in the Nexa rule change request, but the issues go beyond the scope of these rule changes. The Nexa rule change will be considered in parallel to the Review.

Criteria	Description	
		The AER is undertaking a review of its Distribution Ring-Fencing Guideline. However, a number of the identified issues relate to the NER.
Separability	Not separable	Issues such as service classification, ring-fencing, and the approach to shared assets need to be considered together. This part of the framework also has fundamental implications for future rule changes (e.g. DSO).
Consider as part of Review?	Yes	

Table A.4: Potential for connections and facility access processes to act as barriers to entry

Criteria	Description	
Description of issue	See section 2.4	
Materiality	Medium	Consumer outcomes are promoted by a connections and facility access processes that provide for access on fair, reasonable and non-discriminatory terms. There are anecdotal reports that the current arrangements are not working as well as they could be.
Implementation feasibility	High	Changes could be implemented through the NER.
Other processes	Not addressed	There is no other rule change or regular review process to consider these issues.
Separability	Partially separable	These issues are separable to an extent.
Consider as part of Review?	Yes	

Table A.5: Treatment of multi-service assets

Criteria	Description	
Description of issue	See section 2.5	
Materiality	High	This is a material issue that has the potential to have a significant impact on consumers of regulated services and participants in contestable markets.
Implementation feasibility	High	Solutions can be implemented through changes to the NER and AER guidelines.
Other processes	Partially addressed	The AER is undertaking a review its *Shared asset guideline*. However, a number of the identified issues relate to the NER.
Separability	Not separable	Issues such as service classification, ring-fencing, and the approach to shared assets need to be considered together. This part of the framework also has fundamental implications for future rule changes (e.g. DSO).

Criteria	Description
Consider as part of Review?	Yes

Table A.6: Connections cost allocation and recovery

Criteria	Description	
Description of issue	There are different approaches to cost allocation and charging for transmission connections and distribution connections. This impacts how costs are apportioned between the connecting customer and other customers, which is becoming an issue with data centres. This allocation may also not be efficient and may also make transmission connections more favourable to connecting parties than distribution connections.	
Materiality	High	There are potentially significant costs to consumers associated with subsidisation of data centre driven augmentations. Consumers also likely stand to benefit from more balanced locational incentives for generation/storage to connect at the distribution vs transmission level. Analysis by the AEMC, AER and jurisdictions indicates there are likely issues with the current framework.
Implementation feasibility	Medium	Reforms could potentially be implemented through NER and AER guidelines, but may also require NEL changes.
Other processes	Addressed	Energy Ministers have recently tasked the AER and AEMC with providing advice on these issues. Some of the issues are also being considered as part of the Pricing Review.
Separability	Separable	Issues of connections and pricing across distribution and transmission are largely separable from issues that relate to the broader network regulation framework.
Consider as part of Review?	No	

Abbreviations and defined terms

AC	Alternating current
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CER	Consumer energy resources
Commission	See AEMC
CPU	CitiPower, Powercor and United Energy
DC	Direct current
DCCEEW	Commonwealth Department of Climate Change, Energy, the Environment and Water
DER	Distributed energy resources
DNSP	Distribution Network Service Provider
DSO	Distribution system operator
ENA	Energy Networks Australia
ENRR	Electricity Network Regulation Review
EV	Electric vehicle
EVCI	Electric Vehicle Charging Infrastructure
ISP	Integrated System Plan
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
Nexa	Nexa Advisory
NSP	Network Service Provider
Ofgem	Ofgem - UK energy regulator
Proponent	The proponent of the rule change request
Review	See ENRR
SAPS	Stand alone power system
TNSP	Transmission Network Service Provider